

Live Active Leisure

PUBLIC INTEREST DISCLOSURE ACT – 'WHISTLE BLOWING POLICY'

PROCEDURE FOR '**OUR PEOPLE**' TO REPORT CONCERNS

Introduction

This policy outlines the procedures for employees to raise concerns on matters which are contrary to the public interest. Live Active Leisure [the Company] is committed to the highest standards of openness, probity and accountability in the conduct of its business and is anxious to avoid wrong doing or malpractice in its affairs.

Our People are often the first to realise that there may be something seriously wrong within the Company. However, they may not express a concern because they feel that speaking up would be disloyal to their colleagues or to the Company. They may also fear harassment or victimisation. In these circumstances, it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice. This policy seeks to address these issues by encouraging **Our People** to bring forward concerns in the knowledge that they will be investigated and that individuals will not suffer detriment or be victimised for raising such concerns.

The Public Interest Disclosure Act 1998 came into force on 2 July 1999 and introduced specific rights and safeguards for those who disclose information to a third party about an alleged wrong doing in defined circumstances. It does not however, introduce a general right for all so-called 'whistle blowers' to receive special protection rather, the intention behind the Act is to ensure that disclosures are channelled through the appropriate sources wherever possible.

The Act therefore gives specific protection against dismissal or any detrimental action to the employees who disclose certain types of information to a specified individual or person in specific circumstances.

The Act does not however, give protections against disciplinary action if a disclosure is found to be malicious or vexatious, or where there are no reasonable grounds for believing that the information supplied was accurate. Whilst the Company encourages disclosures made in good faith, employees should be aware that disclosure to the media or to non-prescribed persons will not usually be protected unless there are extreme circumstances and that non-protected disclosures may lead to disciplinary action being taken.

Disciplinary action will be taken against anyone who:

- Deliberately makes false or malicious allegations
- Makes disclosures for personal gain
- Makes a non-protected disclosure without exhausting the internal procedure
- Victimises anyone for raising a concern or making a disclosure under this policy
- Inappropriately deters anyone from making a legitimate disclosure

Such conduct will be treated as gross misconduct and may lead to dismissal.

Where, following investigation, a disclosure is substantiated, disciplinary action, or other appropriate sanction, may be taken against the person who is the subject of the disclosure.

Specified Category of Information

The statutory protection given by the Act applies only to information which, in the reasonable belief of the employee making the disclosure, tends to show one or more of the following:

- That a criminal offence has been committed, is being committed or is likely to be committed

- A danger to the health and safety of any individual
- A serious act of misconduct
- A serious breach of Company conduct rules
- 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
- That a miscarriage of justice has occurred, is occurring or is likely to be endangered
- That the environment has been, is being or is likely to be damaged; or
- That information tending to show any matter falling within any one of the above paragraphs has been, is being or is likely to be deliberately concealed

Procedure for Disclosure

In order to qualify for the protection given under the Act, there are specific procedures which must be followed to disclose one of the matters specified in the paragraph above. There are six different ways in which you can make a disclosure and obtain such protection but this policy only covers five of these procedures as the other procedure, which deals with a disclaimer to a Minister of the Crown, does not affect you as an employee of the Company.

The Company would wish to resolve all concerns of public interest within the Company and the easiest and preferred method of disclosure for effective and quick resolution of concerns would be through this method.

Disclosure to the Company

The first method of disclosure which will be protected is disclosure in good faith made by you to the Company on the basis of a reasonable belief that one or more of the categories apply. If you therefore have concerns about an aspect of individual behaviour or corporate practice which falls under one, or more, of the categories referred to above you should, in the first instance, raise the matter with your line manager either in writing or verbally. If for any reason you feel you cannot raise your concerns with your line manager then you should contact the Chief Executive Officer or the Deputy Chief Executive Officer. You can disclose the information verbally or in writing.

Irrespective of who you make the disclosure to, the disclosure will be treated in confidence and every effort will be made not to reveal your identity, if you so wish. However, you may have to be interviewed as a witness and meetings can be arranged out with your normal workplace at your request. If you wish to be accompanied at any meetings you should make this request before the meeting and due consideration of the appropriateness of this, given confidentiality issues, would be given by the investigating officers. Anonymous disclosures will be considered but the investigation is likely to be hindered and possibly less effective without the benefit of discussing the details of the initial disclosure with you further.

Your disclosure will be investigated promptly and in some cases investigation could involve appropriate senior managers, or the Police. Your assistance may be required during the investigation. Those undertaking the investigation will send a written report on all cases to the Chief Executive Officer. The report will advise the relevant staff on the outcome of an investigation, action (if any) required to remedy any identified malpractice and whether further investigations should be undertaken. You will be advised of the outcome of the investigation as soon as possible.

Any employee or worker found to be victimising another worker for using this procedure, or deterring any employee or worker from reporting genuine concerns under this procedure, or subjecting the employee or worker to detriment, such as denial of promotion or training or making a malicious or vexatious disclosure, could be subject to disciplinary action. If you feel that you are being victimised, harassed or subject to detriment, for reasons associated with the information disclosed, you should follow procedures outline in the Company's policy on Harassment at Work contained in the Induction pack or available from Company Head Office.

Other Disclosures

Disclosure to Legal Adviser

The second method of protected disclosure is relatively straightforward. This is where it is made in the course of obtaining legal advice, so if you disclose information to your solicitor, you will have the right not to be subjected to dismissal or detriment as a result.

Disclosure to Prescribed Person

The third method of disclosure which may give rise to protection is a disclosure in good faith to a person prescribed by an order made by the Secretary of State. An order has been made by the Secretary of State (the Public Interest Disclosure (Prescribed People) Order 1999) and there is a list of persons prescribed for that purpose, such as the Accounts Commission for Scotland and the Health and Safety Executive. However, in order to obtain protection you must have a reasonable belief that the failure falls within a certain category described in the order made by the Secretary of State and that the information disclosed, and any allegations contained in it, are substantially true. Before considering disclosing information to a prescribed person, it is suggested you discuss the matter with the Chief Executive Officer to ensure that what you propose to disclose meets the criteria set out in the Public Interest Disclosure (Prescribed Person) Order 1999. A copy of the list of prescribed persons is available from Company Head Office.

Disclosure to Other Persons

If you wish to disclose information to other persons including the media, there are a number of criteria that must be satisfied if you are to obtain protection by virtue of the 1998 Act. The criteria are as follows:

- You have made the disclosure in good faith
- You reasonably believe that the information disclosed, and any allegation contained in it, are substantially true
- You have not made the disclosure for the purposes of personal gain
- The disclosure meets one of the conditions set out below

Conditions

- That at the time you make the disclosure you reasonably believe that you will be subject to a detriment by the Company as your employer if you make a disclosure to the Company or to a prescribed person
- That, in a case where no person is prescribed in relation to the relevant circumstances, you reasonably believe that it is likely that evidence relating to the relevant failure will be concealed or destroyed if you make a disclosure to the Company
- That you have previously made a disclosure of substantially the same information to the Company or to a prescribed person

Disclosure of Exceptionally Serious Breaches

The final type of protected disclosure is where the subject matter of the disclosure is serious enough to merit bypassing one of the other procedures. In order to benefit from this, apart from the criteria and conditions referred to above, you must also show that the matter disclosed is of an exceptionally serious nature. You will not benefit from the Act if you act wholly unreasonably eg going straight to the press when there is a less damaging way to resolve the matter.

It is quite clear that the aim of the legislation is to encourage you to disclose information through appropriate internal channels as detailed in above, rather than going directly to an outside person, such as a member of the media. While it is relatively easy for you to disclose information to the Company and gain protection against dismissal or detriment, the Act does make it much more difficult for you to disclose information to the press and still gain protection.

Independent Advice

Employees should seek independent advice before raising concerns externally so that they can be advised on whether the proposed disclosure may be protected under the Act. Such advice can be obtained from the

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charity Public Concern at Work. Further information can be found by looking at the website:
<http://www.pcaaw.co.uk>

Guidance on Specific Issues

This policy is designed to allow a channel for serious issues of a public interest (i.e. inappropriate or illegal use of public resources) to be raised. It should not be used for concerns of any other nature which Employees feel have a particular negative impact on them and for which the normal grievance or other appropriate procedure should be used.

Additional Information

Any Employees who would like further information about the Company's Whistleblowing policy should either contact their line manager or, for further information on the Public Interest Disclosure Act, refer to the Public Concern at Work website at <http://www.pcaaw.co.uk>.