



## Whistle-blowing

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### 1. Introduction

Hope into Action is committed to the highest standards of openness, integrity and accountability.

An important aspect of accountability and transparency is a mechanism to enable staff and other members of the charity to voice concerns in a responsible and effective manner.

It is a fundamental term of every contract of employment that an employee will faithfully serve his or her employer and not disclose confidential information about the employer's affairs. Nevertheless, where an individual discovers information which they believe shows serious malpractice or wrongdoing within the organisation then this information should be disclosed internally without fear of reprisal, and there should be arrangements to enable this to be done independently of line management (although in relatively minor instances the line manager would be the appropriate person to be told).

*The Public Interest Disclosure Act 1998, protects workers from detrimental treatment or victimisation from their employer if, in the public interest, they blow the whistle on wrongdoing.*

Hope into Action has endorsed the provisions set out below so as to ensure that no member of staff should feel at a disadvantage in raising legitimate concerns.

It should be emphasised that this policy is intended to assist individuals who believe they have discovered malpractice or impropriety that is in the public interest. It is not designed to question financial or business decisions taken by Hope into Action nor should it be used to reconsider any matters which have already been addressed under harassment, complaint, disciplinary or other procedures.

It is reasonable to expect staff use these "whistleblowing" procedures rather than air their complaints outside Hope into Action.

## **2. Policy Summary**

This policy is designed to enable employees of Hope into Action to raise concerns internally and at a high level and to disclose information which the individual believes shows malpractice or impropriety and that are in the public interest.

## **3. Other relevant policies**

This policy should also be read in conjunction with:

- Complaints policy.
- Bullying & Harassment Policy
- Grievance procedure (in the staff handbook).
- ACAS - advice: <http://www.acas.org.uk/index.aspx?articleid=1919>

## 4. What is a whistleblower?

You're a whistleblower if you're a worker and you report certain types of wrongdoing. This will usually be something you've seen at work - though not always.

The wrongdoing you disclose must be in the public interest. This means it must affect others, for example the general public.

As a whistleblower you're protected by law - you should not be treated unfairly or lose your job because you 'blow the whistle'.

You can raise your concern at any time about an incident that happened in the past, is happening now, or you believe will happen in the near future.

### 4.1 Protection from unfair treatment at work

If you're a charity worker and report certain types of wrongdoing, this is known as 'whistleblowing'. Your employer must not treat you unfairly at work because you blow the whistle. If the information you report, and how you report it meets specific requirements the law will protect you. You must:

- be a worker, not a volunteer
- reveal the information in the public interest
- reveal certain types of wrongdoing
- tell the right person or organisation

## 5. Complaints that count as whistleblowing

Qualifying disclosures are disclosures of information where the worker reasonably believes (and it is in the public interest) that one or more of the following matters is either happening, has taken place, or is likely to happen in the future.

- a criminal offence, for example fraud
- someone's health and safety is in danger
- risk or actual damage to the environment
- a miscarriage of justice
- the company is breaking the law, for example does not have the right insurance
- you believe someone is covering up wrongdoing

## 6. Complaints that do not count as whistleblowing

Personal grievances (for example bullying, harassment, discrimination) are not covered by whistleblowing law, unless your particular case is in the public interest.

Report these under Hope into Action's Grievance Procedure found in the Staff Handbook or follow guidance in the relevant policy.

## **7. What is the difference between Whistleblowing and a Grievance?**

When someone blows the whistle they are raising a concern about danger or illegality that affects others. The person blowing the whistle is usually not directly, personally affected by the danger or illegality. Consequently, the whistleblower rarely has a personal interest in the outcome of any investigation into their concern – they are simply trying to alert others. For this reason, the whistleblower should not be expected to prove the malpractice. He or she is a messenger raising a concern so that others can address it.

This is very different from a personal complaint or grievance. When someone complains or raises a grievance, they are saying that they have been personally treated poorly. This poor treatment could involve a breach of their individual employment rights or bullying and the complainant is seeking redress or justice for themselves. The person making the complaint therefore has a vested interest in the outcome of the complaint and for this reason, is expected to prove their case.

## **8. Who to tell and what to expect**

If you are going to make a disclosure you should make it known to Hope into Action first, following this policy. This whistleblowing policy tells you what to expect if you report your concern to Hope into Action.

There are other options if you do not want to report your concern to Hope into Action. So that employment rights are protected, the disclosure should be made to a prescribed person or body and a list of these may be found on the GOV.UK website. You may also seek legal advice from a lawyer.

### **8.1 How the Charity Commission can help**

Your information helps determine if a charity is at risk, and how serious it is. We will make a record of your concern, and investigate those that pose the highest risk. If we investigate a concern we usually work with the trustees and the charity to help get it back on track. You can report things that have happened, are happening or are likely to happen. Only report issues to us that could seriously harm:

- the people a charity helps
- the charity's staff or volunteers
- services the charity provides
- the charity's assets
- the charity's reputation

Examples of serious harm include:

- if someone's health or safety is in danger, for example if a charity does not use its safeguarding policy
- a criminal offence, for example theft, fraud or financial mismanagement
- if a charity uses its activities as a platform for extremist views or materials

- loss of charity funds, for example when a charity loses more than 20% of its income or more than £25,000
- if the charity does not meet its legal obligations, for example if someone uses a charity for significant personal advantage

## **9. Making your claim anonymously or confidentially**

You can tell your employer or a prescribed person anonymously but they may not be able to take the claim further if you have not provided all the information they need.

You can give your name but request confidentiality - the person or body you tell should make every effort to protect your identity.

If you report your concern to the media, in most cases you'll lose your whistleblowing law rights.

## **10. What Hope into Action or a prescribed person will do**

Hope into Action or the prescribed person will listen to your concern and decide if any action is needed. You may be asked for further information.

You must say straight away if you do not want anyone else to know it was you who raised the concern.

You will not have a say in how your concern is dealt with.

Your employer or the prescribed person can keep you informed about the action they've taken, but they cannot give you much detail if they have to keep the confidence of other people.

A prescribed person cannot help you with your relationship with your employer.

## **11. HIA Safeguards for Whistleblowers**

### **i. Protection**

This policy is designed to offer protection to those employees of Hope into Action who disclose such concerns provided the disclosure is made:

- In good faith
- in the reasonable belief of the individual making the disclosure that it tends to show malpractice or impropriety and if they make the disclosure to an appropriate person (see below). It is important to note that no protection from internal disciplinary procedures is offered to those who choose not to use the procedure. In an extreme case malicious or wild allegations could give rise to legal action on the part of the persons complained about.

### **ii. Confidentiality**

Hope into Action will treat all such disclosures in a confidential and sensitive manner. The identity of the individual making the allegation may be kept confidential so long as it does not hinder or frustrate any investigation. However,

the investigation process may reveal the source of the information and the individual making the disclosure may need to provide a statement as part of the evidence required.

### **iii. Anonymous Allegations**

This policy encourages individuals to put their name to any disclosures they make. Concerns expressed anonymously are much less credible, but they may be considered at the discretion of Hope into Action.

In exercising this discretion, the factors to be taken into account will include:

- The seriousness of the issues raised
- The credibility of the concern
- The likelihood of confirming the allegation from attributable sources

### **iv. Untrue Allegations**

If an individual makes an allegation in good faith, which is not confirmed by subsequent investigation, no action will be taken against that individual. In making a disclosure the individual should exercise due care to ensure the accuracy of the information. If, however, an individual makes malicious or vexatious allegations, and particularly if he or she persists with making them, disciplinary action may be taken against that individual.

## **12. HIA 'Whistleblowing' PROCEDURE**

### **12.1. Who to report the matter to:**

The complainant should in the first instance report their concern to their line manager or another responsible member of staff who will pass this on to the appropriate designated investigating officer as listed below.

The complainant may go directly to the designated investigating officer as specified below.

### **12.2. Designated Investigating Officer**

On receipt of a complaint of malpractice, clearly labelled as a 'whistleblowing complaint', the member of staff who receives and takes note of the complaint, must pass this information as soon as is reasonably possible, to the appropriate designated investigating officer as follows:

- Complaints of malpractice will be investigated by the appropriate Director. All directors are shown on the Hope into Action Organisation Chart on SharePoint.
- If however, the complaint is against the Director or is in any way related to the actions of the Director then the complaint should be passed to the Executive Director for referral.

- In the case of a complaint, which is any way connected with but not against the Executive Director, the Executive Director will nominate a Senior Manager to act as the alternative investigating officer.
- Complaints against the Executive Director should be passed to the Chair of Trustees who will nominate at least 2 appropriate investigating officers.
- The complainant has the right to bypass the line management structure and take their complaint direct to the Chair of Trustees (See HIA Organisation Chart). The Chair of Trustees has the right to refer the complaint back to management if he/she feels that the management without any conflict of interest can more appropriately investigate the complaint.

Should none of the above routes be suitable or acceptable to the complainant, then the complainant may approach one of the following individuals who have been designated and trained as independent points of contact under this procedure. They can advise the complainant on the implications of the legislation and the possible internal and external avenues of complaint open to them:

1 \_Mark Jackson Auditor – Rawlinsons Accountant. please go to him in the event of a financial complaint ([01733 568321](tel:01733568321)) Ruthlyn Hse, 90 Lincoln Rd, Peterborough, PE1 2SP.

2 QUEST – HR consultants. [www.questcover.com](http://www.questcover.com)

If there is evidence of criminal activity then the investigating officer should inform the police. Hope into Action will ensure that any internal investigation does not hinder a formal police investigation.

### **12.3. Timescales**

Due to the varied nature of these sorts of complaints, which may involve internal investigators and / or the police, it is not possible to lay down precise timescales for such investigations. The investigating officer should ensure that the investigations are undertaken as quickly as possible without affecting the quality and depth of those investigations.

The investigating officer, should as soon as practically possible, send a written acknowledgement of the concern to the complainant and thereafter report back to them in writing the outcome of the investigation and on the action that is proposed.

If the investigation is a prolonged one, the investigating officer should keep the complainant informed, in writing, as to the progress of the investigation and as to when it is likely to be concluded.



#### **12.4. Investigating Procedure**

All responses to the complainant should be in writing and sent to their home address.

All original paperwork is to be filed securely by HR.

The investigating officer should follow these steps:

- Full details and clarifications of the complaint should be obtained.
- The investigating officer should inform the member of staff or team against whom the complaint is made as soon as is practically possible. The member of staff or team will be informed of their right to be accompanied by a trade union, legal or other representative at any future interview or hearing held under the provision of these procedures.
- The investigating officer, should as soon as practically possible, send a written acknowledgement of the concern to the complainant.
- The investigating officer should consider the involvement of Hope into Action auditors and the Police at this stage and should consult with the Chair of Trustees / Executive Director
- The allegations should be fully investigated by the investigating officer with the assistance where appropriate, of other individuals / bodies.
- A judgement concerning the complaint and validity of the complaint will be made by the investigating officer. This judgement will be detailed in a written report containing the findings of the investigations and reasons for the judgement. The report will be passed to the Executive Director or Chair of Trustees as appropriate.
- The Executive Director / Chair of Trustees will decide what action to take. If the complaint is shown to be justified, then they will invoke the disciplinary or other appropriate procedures to rectify the situation.
- The complainant should be kept informed of the progress of the investigations in writing, what action is proposed and, if appropriate, of the final outcome.
- If appropriate, a copy of the outcomes will be passed to Hope into Action Auditors to enable a review of the procedures.

If the complainant is not satisfied that their concern is being properly dealt with by the investigating officer, they have the right to raise it in confidence with the Executive Director / Chair of Trustees, or one of the designated persons described above.

If the investigation finds the allegations unsubstantiated and all internal procedures have been exhausted, but the complainant is not satisfied with the outcome of the investigation, Hope into Action recognises the lawful rights of employees and ex-employees to make disclosures to prescribed persons (such

as the Health and Safety Executive, the Audit Commission, or the utility regulators) or the police.

### **13. If you're treated unfairly after whistleblowing**

You can take a case to an employment tribunal if you've been treated unfairly because you've blown the whistle.

You can get further information from the Advisory, Conciliation and Arbitration Service (Acas), Citizens' Advice or the whistleblowing charity Public Concern at Work.

If you reported your concern anonymously, you may find it harder to argue that your unfair treatment was as a result of your whistleblowing.

You must raise any claim of unfair dismissal within 3 months of your employment ending.

You must notify Acas if you want to take your case to an employment tribunal.