

# Whistle Blowing

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Kent Community Foundation is committed to its core values of excellence and integrity and always aims to conduct its work ethically and honestly with accountability and transparency. An important aspect of accountability and transparency is enabling staff and others working on behalf of Kent Community Foundation to voice concerns about fraud, misconduct or wrongdoing in a responsible and effective manner. Kent Community Foundation requires all individuals to raise any concerns that they may have about the conduct of others in the charity or the way in which the organisation is run. This policy sets out when such reporting may be necessary, the way in which individuals can do this and how those concerns will be dealt with.

## Principles

- Everyone should be aware of the importance of preventing and eliminating wrongdoing at work. Staff and others working on behalf of the charity should be watchful for illegal or unethical conduct and report anything of that nature that they become aware of.
- Any matter raised under this procedure will be investigated thoroughly, promptly and confidentially, and the outcome of the investigation reported back to the person who raised the issue.
- No employee or other person working on behalf of the charity will be victimised for raising a matter under this procedure. This means that the continued employment and opportunities for future promotion or training of the worker will not be prejudiced because they have raised a legitimate concern.
- Victimisation of an individual for raising a qualified disclosure will be a disciplinary offence.
- If misconduct is discovered as a result of any investigation under this procedure, our disciplinary procedure will be used, in addition to any appropriate external measures. Maliciously making a false allegation is a disciplinary offence.
- An instruction to cover up wrongdoing is itself a disciplinary offence. If told not to raise or pursue any concern, even by a person in authority such as a manager, you should not agree to remain silent. You should report the matter to the Chief Executive or the Chair of the Board of Trustees.

## Protecting ‘Whistle-blowers’

The Public Interest Disclosure Act 1998 amended the Employment Rights Act 1996 to provide protection for workers who raise legitimate concerns about specified matters in the public interest. These are called ‘qualifying disclosures’. A qualifying disclosure is one made by an employee who has a reasonable belief that any of the following is being, has been or is likely to be, committed:

- A criminal offence
- A miscarriage of justice
- An act creating risk to health and safety
- An act causing damage to the environment
- A breach of any other legal obligation
- Concealment of any of the above

It is not necessary to have proof that such an act is being, has been, or is likely to be, committed – a reasonable belief is sufficient. The individual making the disclosure has no responsibility for investigating the matter – it is the charity's responsibility to ensure that an investigation takes place.

The employee making the protected disclosure has the right not to be dismissed, subjected to any other detriment or victimised because they have made a disclosure.

Under the law, interns, contractors or volunteers, are not afforded the same legal protection that is afforded to employees through this Act, however, Kent Community Foundation wants to promote and encourage an open and honest environment in which concerns can be freely raised. The Foundation will therefore, in so far as is possible, aim to treat all individuals making a disclosure in the spirit of the Public Interest Disclosure Act 1998.

## **When to use this Procedure?**

Any matters to do with a staff member's employment should be handled through the grievance procedure outlined in the staff handbook. A grievance is a complaint surrounding an individual's employment, which involves proving a case and having a personal outcome for the individual. Whistleblowing procedures exist to enable those working for an organisation to alert senior management about improper conduct in the charity that has a wider affect and may be in the public interest to address. No evidence is needed to 'Whistleblow', the matter will be fully investigated by the Foundation.

## Procedure

### Stage 1

In the first instance, any concerns should be raised with the Chief Executive, who will arrange an investigation of the matter. The investigation may involve you and other individuals involved giving a written statement. Any investigation will be carried out in accordance with the principles set out above. Your statement will be taken into account and you will be asked to comment on any additional evidence obtained. The Chief Executive will take any necessary action, including reporting the matter to the Chair of the Board of Trustees and any appropriate government department or regulatory agency. The Chief Executive will also invoke any disciplinary action required. On conclusion of any investigation, you will be told the outcome and what the charity has done, or proposes to do, about it. If no action is to be taken, the reason for this will be explained.

### Stage 2

If you are concerned that the Chief Executive is involved in the wrongdoing, has failed to make a proper investigation or has failed to report the outcome of the investigations to the relevant person, you should escalate the matter to the Chair of the Board of Trustees. The Chair will arrange for a review of the investigation to be carried out, make any necessary enquiries and make their own report to the board.

### Stage 3

If on conclusion of stages 1 and 2 you reasonably believe that the appropriate action has not been taken, you should report the matter to the relevant body. We strongly encourage you to exhaust the internal processes set out above in the first instances. In exceptional or urgent circumstances, however, or where, having made a disclosure, you are unhappy with the outcome, you have a legal right to make a disclosure to prescribed bodies. These include but are not limited to:

- HM Revenue & Customs



- the Health and Safety Executive
- the Environment Agency
- the Serious Fraud Office
- the Charity Commission
- the Pensions Regulator
- the Information Commissioner
- the Financial Conduct Authority.

You can find the full list in The Public Interest Disclosure (Prescribed Persons) Order 2014:

[www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/496899/BIS-16-79-blowing-the-whistle-to-a-prescribed-person.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/496899/BIS-16-79-blowing-the-whistle-to-a-prescribed-person.pdf)

## Confidentiality

The Foundation 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 prevent effective investigation.

## 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.



## **Disclosures to the Press**

Disclosures which do not go through this procedure and are taken directly to the press will not be considered reasonable and may constitute misconduct. As such, the matter might be treated as a disciplinary matter in accordance with our disciplinary and grievance policy and procedure.