

COLWALL ORCHARD GROUP

Whistleblowing Policy and Procedure

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Colwall Orchard Group (COG) Whistleblowing Policy and Procedure

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1. Policy Statement

COG is committed to working ethically and to high standards of quality, integrity, accountability and professionalism. We also recognise that there may be occasions where we do not always get things right or that you may have concerns. In these instances, we all have a right and responsibility to speak up.

This whistleblowing policy and procedure applies to all who work and volunteer within COG. It outlines when, and how, to raise any genuine and serious concerns that do not align with these values and the protection you are afforded as a whistleblower.

2. Definition of Whistleblowing

2.1 What is whistleblowing?

'Whistleblowing' is a term used to refer to the internal or external disclosure of malpractice as well as illegal acts, or omissions, at work. It can be referred to as 'making a disclosure' or 'blowing the whistle.' The terms 'report' and 'disclosure' refer to the same act throughout this policy.

2.2 A Qualifying Disclosure

This term is given to a disclosure or report made by someone who genuinely and in good faith believes one of the incidents outlined below is happening, has happened or likely to happen in the future. A qualifying disclosure must be in the public's best interests and relate to:

- a criminal offence
- a failure to comply with a legal obligation
- someone's health and safety being put at risk
- risk or actual damage to the environment
- a miscarriage of justice
- a belief someone has covered up, or is covering up, wrongdoing in the above categories.

The full parameters of a protected disclosure are set out in the Employment Rights Act (ERA) 1996.

2.3 What Whistleblowing Is Not

Whistleblowing does not include the following types of disclosures or reports:

- personal grievances such as bullying, harassment or discrimination
- safeguarding concerns
- disciplinaries or grievances

There are occasions when a concern related to the above could be considered in the public's interest and therefore become a whistleblowing concern. However, in most circumstances you should review the relevant organisational policies and procedures.

2.4 Malicious Whistleblowing

Provided you are acting genuinely, with reasonable belief of a concern, and in the best interests of the public, it does not matter if you are mistaken.

However, if it is proven through an investigation process that an allegation of wrongdoing has been made maliciously, then the person who made the allegations may face disciplinary action and in some cases may be subject to criminal investigation where illegality has occurred.

Malicious allegations include but are not limited to:

- raising a matter which you know to be untrue
- making an allegation without having reasonable grounds for believing it to be substantially true
- improperly collecting the information to support the allegations
- being involved in any way in the malpractice qualifying disclosure
- making an allegation for personal or third-party gain.

When a malicious allegation has been made it is unlikely a person will have protection.

3. Protection of the Whistleblower

The Public Interest Disclosure Act 1998 (PIDA) grants protection to employees, as well as certain workers, contractors, trainees and agency staff. However, there are gaps in the law that mean other individuals do not have legal protection. They include, but are not limited to:

- Interns
- Volunteers
- Priests or ministers of religion
- Foster carers
- Members of the armed forces
- Self-employed workers

Section 43 of PIDA provides protection for individuals who raise legitimate concerns, as outlined in section 2.2. PIDA provides protection from detriment, dismissal or redundancy to people disclosing information.

However, in order to show our commitment to working ethically and to maintaining high standards of quality, integrity, accountability and professionalism COG will, in so far as is possible, aim to treat all individuals making a disclosure in the ethos of PIDA.

4. Raising a Concern Within the Organisation

4.1 When to Raise a Concern

Raise a whistleblowing concern as soon as possible. You do not need to wait for proof when reporting wrongdoing: you only need to have a reasonable concern. It is not for you to investigate or prove that your concerns are justified.

'Blow the whistle' if you have a concern, that you reasonably believe is of public interest, about the conduct of others in the organisation or the way in which the organisation is run as outlined in section 2.2.

4.2 How to Make a Disclosure

Where possible you should make your disclosure in writing. If made orally, it is advised to follow up in writing. Include:

- any relevant context and background, including relevant dates, venues, names etc
- give specific example of any wrongdoing that you are personally aware of
- state clearly the reason why the situation gives causes for concern, as outlined in section 2.1.

This helps to ensure problems can be resolved as quickly, efficiently and effectively as possible. Make clear that you are making a disclosure using the whistleblowing policy and whether you wish your identity to be kept confidential.

4.3 Confidentiality of Disclosures

Every effort will be made to keep the identity of an individual making a disclosure confidential provided that this is compatible with a proper investigation. Depending on the circumstances of the case it may not always be possible. Where this is a reality, you will be informed of this and the reasons why it was not possible.

4.4 Who to Report to

Usual reporting channels should be assumed when making whistleblowing disclosures. Therefore, in most cases you should discuss any concerns you have with the Chair or Vice Chair of the Trustees. If this is still not possible see section 5 on external disclosures.

4.5 Handling of Disclosures

You will receive confirmation of your report within three working days. It is then likely an investigation will follow and you will be asked to attend a meeting to explain your disclosure in full.

You will be told either at the meeting or as soon as possible afterwards, what action will be taken to address the report you have made. Where action is not taken, you will be informed and given an explanation.

The action taken in response to a disclosure will depend on the nature of the concern. Typically, the matters raised may result in one or more of the following:

- no action required
- action being taken under other policies
- an internal investigation under this policy
- a referral to the police or relevant statutory body
- a referral to external auditors
- a referral to the Charity Commission
- an independent enquiry

4.6 Anonymous Reports

In view of the protection afforded to an individual raising a genuine concern, it is considered desirable that they disclose their personal information. See section 3 for more information on your protected status.

However, anonymous disclosures will be accepted and treated as equally as those bearing a name. When receiving an anonymous report:

- a decision will be made about whether it is possible to pursue the report based on the information provided
- a complete and comprehensive investigation will be more challenging as there is no option to seek further information or clarification
- it will not be possible to share any outcome or actions from an investigation.

5. External Reporting

COG encourages all reports to be made internally in the first instance. Subsequently all avenues of escalation should be exhausted. However, in circumstances where that is not possible, or where having made a disclosure, you are unhappy with the outcome, you have a legal right to make a disclosure to an external body. This is called a 'Public Disclosure'.

An external body may be non-regulatory; such as an MP, legal advisor or the police. Alternatively, it may be regulated, in which case, the disclosure can be made to 'prescribed' persons should the malpractice fall within that body's regulatory remit.

These prescribed bodies include but are not limited to:

- Your Local Authority
- The Children's Commissioner
- The Charity Commission
- HM Revenue & Customs
- The Health and Safety Executive
- The Financial Services Authority
- The Office of Fair Trading
- The Environment Agency
- The Information Commissioner
- The Serious Fraud Office

The relevant regulatory or non-regulatory body will carry out investigations as necessary and in line with the procedures and processes outlined by them. A full list of prescribed persons and bodies can be found in the schedule to the Public Interest Disclosure (Prescribed Persons) Order 1999 (SI 1999/1549) or through the [government](#) website.

The disclosure will be protected under legislation in the same way as a disclosure made internally as long as it meets the same conditions.

6. Disclosures to the Media

We will not treat disclosures to the media as reasonable. As such, the matter may be considered as misconduct and treated as a disciplinary matter in line with our disciplinary and grievance policy and procedure.

7. Further Advice

For protection under the Public Interest Disclosure Act 1998, volunteers need to be aware of the strict rules governing disclosures. If at any stage you feel unsure or would like to discuss it with someone independent, you can discuss your concern with someone at Protect.

Protect is an Independent Whistleblowing charity. They provide confidential advice to would-be whistleblowers who are concerned about making a disclosure. Their contact details are:

<https://protect-advice.org.uk/>

Advice line: 020 7404 6609 and 020 3117 2550 Email: whistle@protect-advice.org.uk