

## Whistleblowing Policy

### 1. Introduction and Definitions

#### 1.1

<b>“Act”</b>	means the Public Interest Disclosure Act 1998;
<b>“Code”</b>	means the Fundraising Regulator’s Code of Fundraising Practice;
<b>“Detriment”</b>	means dismissal, victimisation, harassment, discrimination or disadvantage due to reporting a concern pursuant to this Policy;
<b>“Policy”</b>	means this Fundraising Whistleblowing Policy;
<b>“Supervisor”</b>	means the supervisor, line manager or immediate manager of the Whistleblower;
<b>“Volunteer”</b>	includes a trustee of the Charity;
<b>“Whistleblower”</b>	means any Volunteer or employee of the Charity who does or potentially will, pursuant to this Policy, report any concern they have in relation to the Charity’s fundraising practice; and
<b>“Whistleblowing Policy”</b>	means a clear and published internal procedure for staff and volunteers of fundraising organisations enabling them to report any concerns they may have regarding their organisation’s fundraising practice.

#### 1.2 **Charity Commission’s Guidance CC20 (7<sup>th</sup> June 2016)**

CC20 sets out the principles which charity trustees should follow to help meet their responsibility for their charity’s fundraising.

#### 1.3 **The Code**

CC20 requires trustees to identify and follow recognised standards that apply to their charity’s fundraising, including the standards in the Code. The Commission expects all charities that fundraise to fully comply with the Code.

The Code outlines the legal rules that apply to fundraising and the standards designed to ensure that fundraising is open, honest and respectful. The Code states that fundraising organisations must have a Whistleblowing Policy, and that charities must make their Whistleblowing Policy available to staff and volunteers. It states that the Fundraising Regulator expects all charities to have a Whistleblowing Policy in place by 30<sup>th</sup> November 2017. The Code outlines what (as a minimum) a Whistleblowing Policy must include.<sup>1</sup> A Whistleblowing Policy relating to a charity’s fundraising may be a

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<sup>1</sup> The Code requires the following to be included in a Whistleblowing Policy:

- (i) the type of issues that can be raised and the process for doing so;
- (ii) how the person raising a concern will be protected from victimisation and harassment;
- (iii) how and what the organisation will do in response to receiving such information;

standalone policy or part of a wider Whistleblowing policy adopted by the charity.

#### 1.4 **This Policy and its purposes and aims**

The Charity is committed to being open, honest, and accountable, and encouraging a free and open culture in its dealing between the trustees and the employees and volunteers working in Takiwatanga Support Services.

It is in the public interest and in the interest of the Charity that a Whistleblower should have a procedure for reporting concerns about its conduct of fundraising and also have protection from being subjected to disciplinary action and from any Detriment as a result. This Policy therefore sets out the Charity's policy and procedure as to how a Whistleblower may report such concerns and as to how they will be protected by the Charity from any such Detriment arising from a concern reported by them in accordance with this Policy.

The Charity has introduced this Policy pursuant to the Charity Commission's and the Code's requirements. This Policy complies with the Code.

#### 1.5 **Scope of the Act and this Policy**

Protection from Detriment already exists under the Act for an employee of a charity who reports a concern about serious wrongdoing at their charity if that wrongdoing relates to a legal breach, criminal offence, danger to health and safety etc. However, the protection under the Act does not include fundraising, and does not extend to a Volunteer.

In view of the Act's limited scope, the Charity has, by means of this Policy, provided a procedure for employees and Volunteers to report concerns about fundraising. Where they use that procedure, they will be protected against Detriment by the Charity, whether they are an employee or a Volunteer. This Policy only applies in the context of fundraising conduct of the Charity. In this way, this Policy supplements the Act.

This Policy does not apply to a grievance – a grievance relates to a complainant's own position or personal circumstances, whereas Whistleblowing relates not to the person making a report but instead to a general concern which has a public interest aspect to it. A grievance should be dealt with by raising it with their Supervisor as a grievance.

#### 1.6 **Confidential Information and 'protected disclosures'**

Employees and Volunteers may, in properly carrying out their duties, have access to, or come into contact with, information of a confidential nature but, except in the proper performance of their duties, they must not disclose, or make use of in any form whatsoever, such confidential information.

However, the Act allows employees, to make a "protected disclosure" (as defined in the Act) of certain information, and the Charity allows Volunteers as well as employees to do so under this Policy.

Whistleblowing protection is confined under the Act (and also by the Charity under this Policy) to a disclosure which, in the reasonable belief of the Whistleblower making the disclosure under this Policy, is made in the public interest.

This Policy provides that a disclosure is "protected" if it relates to a specific subject matter where the disclosure is made in an appropriate way, i.e. if made in accordance with this Policy.

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(iv) how an individual can escalate their concerns on fundraising practice to the Fundraising Regulator or the Independent Fundraising Standards and Adjudication Panel for Scotland in the event that internal consideration is not possible.

## **2. Specific Subject Matter**

If in the course of their duties with the Charity, a Whistleblower becomes aware of information which they reasonably believe it is in the public interest to disclose and tends to show one or more of the following in relation to the Charity and its conduct of fundraising:

- 2.1 a criminal offence (including fraud, theft or bribery) has been committed, is being committed or is likely to be committed;
- 2.2 a person has failed, is failing or is likely to fail to comply with any legal, professional or regulatory duty or obligation to which he is subject;
- 2.3 a person has failed, is failing or is likely to fail to protect children or vulnerable adults;
- 2.4 a miscarriage of justice has occurred, is occurring, or is likely to occur;
- 2.5 the health or safety of any individual has been, is being, or is likely to be, endangered;
- 2.6 the environment, has been, is being, or is likely to be, damaged;
- 2.7 there is or has been any financial malpractice or impropriety;
- 2.8 there is or has been a breach of the Code or there is likely to be such a breach; or
- 2.9 there is or has been conduct likely to damage the reputation or financial wellbeing of the Charity;
- 2.10 information tending to show any of the above is being, or is likely to be, deliberately concealed;

they should use the Charity's disclosure procedure as set out below.

## **3. Disclosure Procedure**

- 3.1 If a Whistleblower reasonably believes that information tends to show one or more of the above, they should promptly disclose it to their Supervisor. If it is inappropriate for the Whistleblower to make such a disclosure to their Supervisor (e.g. if the information to be disclosed relates to wrongdoing by their Supervisor or it is of an exceptionally serious nature), the Whistleblower should instead make the disclosure to the Chair of Trustees.
- 3.2 However, if the information to be disclosed relates to wrongdoing by a member of senior management, the Whistleblower should instead make the disclosure to a trustee. If it relates to the chief executive, they should instead make the disclosure to the Chair of trustees of the Charity. If it relates to a trustee, they should instead make the disclosure to the Chair of trustees. If it relates to the Chair of trustees, they should instead make the disclosure to the Vice Chair of trustees.
- 3.3 A Whistleblower must make any disclosure in writing (including email).
- 3.4 A Whistleblower does not have to provide evidence about their concern, but they will generally need to provide at least the following:
  - 3.4.1 the nature of their concern and why they believe it to be true; and
  - 3.4.2 the background and history of their concern (where possible).

#### **4. The Investigation**

- 4.1 Provided that a concern is reported by a Whistleblower in accordance with paragraphs 2 and 3 above, it will be without detriment to them. Their identity, the concern, and the information disclosed by them, will thereafter be kept confidential by the Charity so long as it does not hinder or frustrate initial enquiries, or any subsequent investigation carried out under this paragraph 4.
- 4.2 There will be an initial enquiry by the person to whom the concern is disclosed, to resolve the issue informally if possible. If that is not possible within 5 working days after the initial report of the concern, there will be a two-stage investigation process, as follows. No precise timescale can be laid down for how long the investigation will take.
- 4.3 Stage 1: within 10 working days after the report of a concern is made, the Charity will confirm that the investigation will take place and will be in confidence and without Detriment to the Whistleblower, and the Supervisor or other person to whom the disclosure is made will investigate it with the Whistleblower and document the relevant facts relating to the concern; and
- Stage 2: On completion of the investigation, the person who has carried out the investigation will provide all information gathered in the investigation and will pass it to the Chair of Trustees so that they can consider the matter in full and decide on what if any further action should be taken in line with the Act and other relevant good practice and policies.
- 4.4 Where the investigation concludes that there has been some malpractice, further action may include disciplinary proceedings for one or more of the persons involved in it.
- 4.5 Where possible, the Charity will inform the Whistleblower of all matters in relation to the investigation including any course of action decided.

#### **5. Matters Relating to the use of the Procedure**

- 5.1 Where a Whistleblower makes a disclosure, they do not have to prove the truth of the allegations they make when disclosing their concern. They may even be mistaken about it, but they must reasonably believe that the disclosure is made in the public interest and that the information they have tends to show some malpractice.
- 5.2 A Whistleblower will suffer no Detriment from the Charity due to their making such a disclosure if they make their disclosure in accordance with this procedure but if they fail to follow this procedure, it may result in the disclosure of information losing its “protected status”.
- 5.3 The Charity is committed to dealing with a concern raised by a Whistleblower pursuant to this Policy as quickly as possible, in an appropriate, fair and professional manner.
- 5.4 For further guidance in relation to use of the disclosure procedure, a Whistleblower should speak in confidence to the Charity Secretary.

#### **6. Other Means of Disclosure**

##### **6.1 Internal**

A Whistleblower may instead report a concern about the Charity’s conduct of fundraising to the Internal Auditor/Treasurer.

## 6.2 **External**

Whistleblowers are encouraged to report a concern internally rather than externally, and they should normally do so, but if a Whistleblower feels that they cannot reasonably do so, then they may instead raise it with:

6.2.1 “Public Concern at Work”, a charity which aims to empower individuals to speak up about wrongdoing in the workplace, and it can provide advice to a Whistleblower; or

6.2.2 the Fundraising Regulator. In order that it can act, it will first require the Whistleblower’s consent to contact the Charity; or

6.2.3 the Charity Commission.<sup>2</sup>

## 6.3 **Wider Disclosure**

In certain exceptional circumstances<sup>3</sup>, there may be wider disclosure, e.g. to a Whistleblower’s MP, or to the police, or to the press. However, a whistleblower should seek advice from “Public Concern at Work” or a legal adviser before considering making such a disclosure, and in that connection please note that unjustifiable wider disclosure could result in disciplinary action by the Charity against the Whistleblower.

**I/we confirm that this Policy has been approved and authorised by the trustees of the Charity:**

**Name:**

**Position:**

**Date:**

**Signature:**

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<sup>2</sup> Whistleblowers can raise concerns with the Commission (if they do so in good faith) since it is the regulatory body prescribed by the Act for matters relating to proper administration of charities and funds given or held for charitable purposes.

<sup>3</sup> Wider disclosure might be made, for example, where either (a) the whistleblower reasonably believes he will suffer Detriment if he raises the matter internally or with the Charity Commission; or (b) the concern has already been raised with the Charity or the Charity Commission; or (c) the concern is of an exceptionally serious nature.