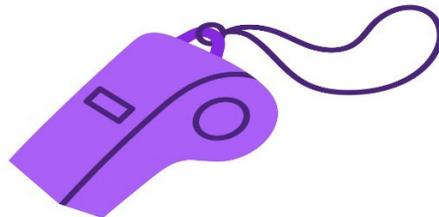


Version	Author	Date approved
V1.0	PDM	09.06.2025

Whistleblowing – Making a public interest disclosure



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About this guide

This guide aims to help charity workers and trustees understand what the Public Interest Disclosure Order 1998 (amended February 2023) (the Order) means for their charity and how any concerns raised that fall under this Order are dealt with. A person raising a concern under this Order is usually called a whistleblower.

If you work for a charity and want to understand how to make a protected disclosure see the Commission's [How to raise a concern about a charity guide](#).

What is whistleblowing

Whistleblowing is when a worker passes on information to someone in authority, either inside or outside the organisation, about wrongdoing, risk or malpractice that affects others. It is sometimes referred to as 'making a protected disclosure' or 'blowing the whistle'.

To count as whistleblowing the wrongdoing which is reported must be in the public interest. This means it must affect others, for example, the people the charity helps (the beneficiaries), or the general public. The Order protects workers who 'blow the whistle' about wrongdoing.

The wrongdoing will usually be about something which a worker has witnessed within their charity. Often the worker will feel that they must draw urgent attention to what they see as a serious risk or threat to the charity or its work.

The worker may pass on the information concerning wrongdoing to the managers of the charity or they can make the disclosure to a 'prescribed person' such as the Commission.

The Commission encourages charity trustees to develop and operate an effective whistleblowing policy. This policy will help charities identify problems at an early stage and address them quickly. An effective whistleblowing policy ensures charities are well managed which influences public trust and confidence in the charity sector.

This guide sets out:

- the kinds of disclosures which may be protected
- who may be protected when they make a disclosure
- the benefits of having a whistleblowing policy
- the potential risks of not encouraging people to raise issues
- what should be included in a whistleblowing policy
- case studies of whistleblowing
- three top tips for charities when dealing with whistleblowing
- where to go for advice.

Key terms

What is a public interest disclosure

A public interest disclosure, or whistleblowing, is when a worker passes on information to someone in authority, either inside or outside an organisation, about wrongdoing, risk or malpractice that affects others. The wrongdoing will usually be about something which the worker has witnessed within their charity.

What is not a public interest disclosure

Personal grievances (for example bullying, harassment, discrimination) are not covered by the whistleblowing protections, unless your particular case is in the public interest. Complaints about service do not fall under the Order either. Issues like these would normally be dealt with under the charity's internal grievance or complaints procedure.

What is a worker

A person is generally classed as a 'worker' if:

- they have a contract or other arrangement to do work or services personally for a reward (a contract can be written or unwritten)
- their reward is for money or a benefit in kind, for example, the promise of a contract or future work
- they only have a limited right to send someone else to do the work, for example to subcontract the work to someone else
- their employer has to have work for them to do as long as the contract or arrangement lasts

- they are not doing the work as part of their own limited company in an arrangement where the 'employer' is a customer or client.

The kinds of disclosures which may be protected

A worker is protected by law if they report any of the following:

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

A disclosure can be made to various people, including the employer, the Commission, other regulators and potentially the press.

The whistleblower must have reasonable grounds for their belief in the complaint.

What is a reasonable belief

In most cases where a genuine concern has been raised, it is easy for a worker to show reasonable belief. A whistleblower does not need to be right about their concern or prove it. They simply need to show that they have some reasonable basis for believing there has been some wrongdoing. That is enough and it will not matter if the whistleblower is later shown to be mistaken.

Whistleblowing is not raising a personal grievance or complaint about service. Issues like this would usually be dealt with under the charity's internal grievance or complaints procedure.

Who may be protected by this Order

If the information you report, and how you report it, meets specific requirements the law will protect you. This means your employer must not treat you unfairly at work because you blow the whistle. To get this protection you must:

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

A confidentiality clause or 'gagging clause' in a settlement agreement is not valid if you are a whistleblower.

You are protected if you are:

- an employee, such as a charity worker, office worker or shop worker
- a trainee, such as a student nurse
- an agency worker
- a member of a Limited Liability Partnership (LLP).

The benefits of having a whistleblowing policy

The Commission encourages charity trustees to view whistleblowers as valuable sources of early warnings about risks, malpractice, or unlawful activities within the charity. This enables trustees to investigate and resolve issues promptly. Whistleblowers are often loyal, public-spirited employees aiming to correct problems.

By developing a whistleblowing policy charity trustees can send a clear signal that they regard whistleblowers as an important resource for the charity's benefit. Without whistleblowers the risk may continue and develop further with consequences which affect the charity's governance or even its assets.

Whistleblowing policies support concerned parties in feeling confident and secure in raising wrongdoing with the appropriate person, as well as detailing how the charity can handle the issues raised. As the issues highlighted in the case studies show, often the information provided can support the charity trustees in acknowledging weaknesses and taking simple, effective action to fix the issue.

The benefits to a charity of encouraging the raising of concerns include:

- spotting wrongdoing as early as possible
- exposing weak or flawed processes and procedures which make the charity vulnerable to loss, criticism or legal action
- ensuring critical information gets to the right people who can deal with the issues
- avoiding financial loss or inefficiency
- maintaining a positive reputation
- lowering risks to the environment or the health or safety of employees or the wider community
- improving accountability and
- discouraging workers from taking part in improper behaviour.

The potential risks of not encouraging people to raise issues include:

- missing the chance to deal with a problem before it gets worse
- weakening your charity's ability to deal with an allegation correctly
- serious legal consequences if an issue is not handled correctly
- significant financial or other loss
- allowing the charity's name and reputation to be damaged
- loss of public confidence in your charity or the sector
- a worker reporting the charity to a regulator or prescribed person, which may bring negative publicity and other consequences to your charity.

What should be included in a whistleblowing policy

When things go wrong, it can be difficult for workers to know what to do and who to report their concerns to. It is good practice for charities to have a whistleblowing policy in place, although this is not required by law.

A basic whistleblowing policy should clearly explain:

- Who is covered.
- Which wrongdoings are covered.
- How confidentiality is maintained.
- How anonymous allegations are handled.
- How untrue allegations are handled.
- How concerns should be raised and who to tell.
- What happens after a concern is raised.
- The safeguards and support available to whistleblowers.
- How the system is monitored and improved.

When a charity worker raises certain types of wrongdoing with the appropriate people they are protected by the law against unfair dismissal or detrimental treatment by their employer. Your whistleblowing policy should make clear what counts as lawful and unlawful treatment of a whistleblower. It should also explain that anyone can report concerns directly to the Commission.

Some organisations have published model whistleblowing policies for example the Arbitration Conciliation & Advisory Service (ACAS) at [ACAS Model whistleblowing policy](#) or Unison, the trade union, at [Model whistleblowing policy](#).

Case studies

Case study 1: Governance issues

A charity trustee had a number of issues about the governance of the charity, including meetings not being carried out in line with the charity's governing document. The charity trustee felt unsure about how to approach the other charity trustees about their issues and opted instead to report the issue directly to the Commission.

The Commission advised the trustee to raise the issues with the other trustees in the first place. As the trustee was unsure how to approach this, the Commission suggested that they detail their issues in an email to the other charity trustees. They were also advised to inform the Commission if their issues were not collectively addressed by the charity trustees. The charity trustees took on board the suggestion and were able to resolve the issues without the intervention of the Commission.

In this case, the charity trustee is not a worker so is not protected under the public interest disclosure law.

All charity trustees are collectively responsible for the governance of their charity, and it is important that charity trustees have the confidence to raise issues with the rest of the trustee board. Had the charity not addressed the issues raised the Commission would have worked with the charity to ensure good governance was restored.

Case study 2: Suspected criminal activity

An employee within a charity had a number of concerns about a dominant trustee. As the charity had no policy in place, the employee had no assurance that their concerns would be properly heard, or that the dominant trustee would not influence the process. They felt that the only route open to them was to raise their concerns with the Commission.

The Commission listened to their concerns, investigated the matter further with the charity and found that this was simply a matter of an internal dispute. The Commission identified minor governance issues within the charity which were resolved through self-regulatory guidance.

This investigation could have been avoided if the charity had had a whistleblowing policy which set out the proper process to be followed and which enabled the employee to have confidence that their concerns would be given due consideration. On completion of a proper, transparent process, the employee could still have raised their concerns with the Commission, however, it is likely having a policy in place and following it would have avoided the report to the regulator.

Top tips for charities when dealing with whistleblowing

1. Make sure you have a clear, written whistleblowing policy. The policy may vary according to your charity's size and resources, but it should state what whistleblowing is, describe the way in which workers can make disclosures and explain how it will be acted upon.
2. Do not ignore whistleblowing complaints. You will need to investigate any disclosure and hold a meeting with the whistleblower to understand the exact nature of the disclosure and alleged wrongdoing.
3. Train your managers so that they know how to deal with disclosures in a fair and consistent way. You should also give your workers training, so they are aware of the policy and know how to make a disclosure.

Where to go for advice

For further information on whistleblowing, please visit the NIDIRECT website www.nidirect.gov.uk or the charity, *Protect* (formerly, *Public Concern at Work*), www.protect-advice.org.uk

More information

Website: www.charitycommissionni.org.uk

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