

## Whistleblowing – Peer Support Plus®



Peer Support Plus is a Charitable Incorporated Organisation (CIO) Registered Charity Number 1190818.

The Charity Commission expects charities will have whistleblowing procedures in place to safeguard the charity and its beneficiaries.

### Personal Grievances

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

Personal grievances do not normally constitute grounds for whistleblowing. Grievance is defined as “a strong feeling that you have been treated unfairly”. ACAS advises: “It is usually a good idea to raise a grievance informally first”. Please talk to your manager or, if your manager is a subject of the grievance, the **Community Trustee**<sup>2</sup>.

If you feel raising a grievance informally has not worked, or you do not want it dealt with informally, please use the *Comments, Compliments and Complaints*<sup>1</sup> process to raise it formally.

Incidents involving bullying, harassment or discrimination should be raised using the process set out in our *Equality and Diversity Policy*<sup>1</sup>.

### What is whistleblowing and who is entitled to legal protection?

Whistleblowing is when an individual discloses suspected wrong-doing in an organisation.

Disclosure of the wrongdoing must be in the public interest. This means it must affect others, for example the general public.

Disclosure of a wrongdoing can be made at any time about an incident that:

- happened in the past
- is happening now
- the whistleblower believes will happen in the near future

No confidentiality or ‘gagging’ clause in any settlement agreement can prevent you from whistleblowing or remove the protection of the law.

Typically, whistleblowing would relate to:

- abuse of authority
- a criminal offence, such as fraud or corruption
- the unauthorised use of public funds
- putting someone’s health and safety in danger
- risk or actual damage to the environment
- a miscarriage of justice

- the charity is breaking or has broken the law, e.g., doesn't have the right insurance
- sexual, physical or verbal abuse, or bullying or intimidation of employees, customers or service users
- the whistleblower believes someone is covering up wrongdoing
- other unethical conduct

All whistleblowers who are employees, workers or office-holders, are protected by law under the Public Interest Disclosure Act 1998, and should not be treated unfairly or lose their job because they 'blow the whistle'. Volunteers are also entitled to be treated fairly if they 'blow the whistle'.

### **Notes:**

Employee All employees have an employment contract with their employer. An employment contract does not have to be written down. A contract is an agreement that sets out an employee's:

- employment conditions
- rights
- responsibilities
- duties

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

- they have a contract or other arrangement to do work or services personally for 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 (subcontract)
- 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 actually a customer or client

Office Holder A person, who has been appointed to a position by a company or organisation but does not have a contract or receive regular payment, may be an office holder. This includes appointments under a trust deed, such as charity Trustees.

Volunteer A ground-breaking decision from the Supreme Court in 2019 means that the protection of Whistleblowing legislation is extended to volunteers.

In the case of *Gilham v Ministry of Justice*, the Claimant was a District Judge and claimed they had been victimised due to raising concerns about cost-cutting reforms and their impact. The Supreme Court held that their situation came under her right to freedom of expression under the Human Rights Act 1998, and not giving them the protection under Whistleblowing legislation would have meant she would have been treated less favourably.

## Get independent advice

If you need advice about blowing the whistle on a charity, call [Protect's](#) free and confidential advice line: Telephone 0800 055 7214

Protect, a specialist whistleblowing charity, can help explain:

- what types of wrongdoing you can report
- your legal rights
- next steps if you decide to report something

You can also get advice from your trade union or from [Citizens Advice](#).

If you are not satisfied with the outcome of Peer Support Plus CIO's process (set out below), or lack faith that the Peer Support Plus CIO Board of Trustees will ensure your serious allegations are properly investigated and appropriate actions taken, then you may wish to report your concern to the Charity Commission by emailing [whistleblowing@charitycommission.gov.uk](mailto:whistleblowing@charitycommission.gov.uk).

Before doing so please read the Charity Commission's web page [How the Charity Commission can help](#). The Charity Commission will expect you to have read their privacy notice about how they will process your data when you [contact us as a whistleblower](#). They will expect you to include answers to the following questions:

- What is the name of the charity? [Peer Support Plus CIO] and its registration number [119018].
- What is your name?
- What is your telephone number? Only include this if you would be happy for us to contact you directly - for example, it is not a work environment.
- What is your role at Peer Support Plus CIO? If you are no longer engaged with the work of Peer Support Plus CIO, please tell us when you left.
- Are you a Peer Support Plus CIO employee, worker, officeholder or volunteer?
- What is your concern?
- What impact does it have on the people Peer Support Plus CIO helps, its assets, services, staff or reputation?
- Have you followed Peer Support Plus CIO's internal procedures or raised it with the charity's trustees? What was the response? If you have not raised it with Peer Support Plus CIO, please explain why not.
- Have you contacted other organisations, like the police or HMRC? Include reference numbers, the name of who dealt with it, and their response if you have.
- Do you give permission to us to reveal your identity to Peer Support Plus CIO trustees?
- If you attach evidence to your email, how is it relevant to your concern?

The Charity Commission will expect you to support your information with evidence because evidence can help them assess the risk your allegation poses to Peer Support Plus CIO.

When telling the Charity Commission about your allegation, please try to include:

- names and roles of people involved
- names and roles of people who know about the issue, for example the charity trustees
- specific dates for when events took place
- specific amounts if you report a financial concern
- links to articles if the press has reported on it

**Note:** It is a criminal offence to knowingly or recklessly provide false or misleading information to the Charity Commission.

### **Process - How Peer Support Plus CIO will respond to whistleblowing**

Peer Support Plus CIO is committed to the highest standards of transparency, probity, integrity and accountability.

This *Whistleblowing*<sup>1</sup> process:

- is intended to provide a means of making serious allegations 'in the reasonable belief that it is in the public interest to do so', in a way that will ensure confidentiality and protect those who make such allegations from being victimised, discriminated against or disadvantaged.
- does not replace other policies and procedures
- is intended to ensure that Peer Support Plus CIO complies with its duty under the Public Interest Disclosure Act 1998.

### **Confidentiality**

Peer Support Plus CIO recognises that taking the decision to make a serious allegation can seem difficult.

Whistleblowers who make serious allegations, in the reasonable belief that it is in the public interest to do so, have nothing to fear because they are doing their public duty to protect the interests of the charity Peer Support Plus CIO and/or its beneficiaries.

Peer Support Plus CIO will take appropriate action to protect from reprisals, harassment or victimisation any whistleblower who makes a serious allegation in the reasonable belief that it is in the public interest to do so.

All allegations will be treated in confidence. Every effort will be made to protect a whistleblower's identity unless they request otherwise. Peer Support Plus CIO will not, without the whistleblower's consent, disclose their identity to anyone other than individual(s) necessarily involved in investigating the allegation.

If the matter is subsequently dealt with through other Peer Support Plus CIO procedures e.g., a disciplinary procedure, it will be necessary to disclose the whistleblower's identity to those conducting the other procedure.

If the allegation results in court proceedings the whistleblower may have to give evidence in open court in order for the case to be prosecuted successfully.

## **Anonymous Allegations**

Peer Support Plus CIO encourages whistleblowers to put their name to allegations wherever possible as anonymous allegations may be difficult to substantiate.

Allegations made anonymously are much less powerful but anonymous allegations will be considered for investigation at the discretion of the **Chair of Trustees**<sup>2</sup>. In exercising discretion whether or not to investigate an anonymous allegation the **Chair of Trustees**<sup>2</sup> will take into consideration:

- the seriousness of the issue raised
- the credibility of the allegation
- whether the allegation can realistically be substantiated by facts, influences or sources other than the complainant

## **Allegations judged on investigation to be untrue**

Even if the allegation is not substantiated on investigation, no disciplinary or other action will be taken against a whistleblower who makes an untrue allegation in the reasonable belief that it is in the public interest to do so.

Disciplinary action may be taken against a whistleblower who makes an allegation without reasonable belief that it is in the public interest to do so e.g., if they make a serious allegation frivolously, maliciously or for personal gain where there is no element of public interest.

## **How to communicate an allegation**

The whistleblower should communicate any serious allegation direct to the **Chair of Trustees**<sup>2</sup>. If the Chair of Trustees is a subject of the allegation, then the allegation should be communicated instead to the **Treasurer Trustee**<sup>2</sup>. If the Treasurer Trustee is also a subject of the allegation it may be communicated to any other Trustee who is not a subject. If all Trustees are a subject of the allegation then consider reporting the serious allegations direct to the Charity Commission, and/or HMRC, and/or the Police as appropriate.

It is vital that relevant information provided by the whistleblower, orally or in writing, is written down, including the:

- background and history of the allegation, giving relevant dates, names and roles of all those who may be a subject of the allegation
- specific reason for the allegation
- identity of the whistleblower
- whistleblower's preferred means of communication and contact details

**Note:** Although the whistleblower will never be expected to prove the truth of their allegation, they will need to provide sufficient information to demonstrate reasonable grounds for communicating a serious allegation 'in the reasonable belief that it is in the public interest to do so'.

The whistleblower may be accompanied by another person of their choosing during any meetings or interviews in connection with the allegation.

**Note:** If the matter is subsequently dealt with through another internal process, then the right to be accompanied will be in accord with that process. The **Chair of Trustees**<sup>2</sup> will record details of the allegation and as much information as can be discovered within 5 working days of its receipt, including:

- if the allegation concerns suspected harm to a child or adult at risk then *Safeguarding Policy*<sup>1</sup> will be followed immediately
- a record of the allegation
- any documents supplied by the whistleblower
- a copy of the **Chair of Trustees**<sup>2</sup> written acknowledgement of the allegation to the whistleblower
- to preserve confidentiality, the whistleblower's preferred means of communication and contact details will be used for all communications with the whistleblower
- if the allegation relates to fraud, potential fraud or other financial irregularity, and the **Treasurer Trustee**<sup>2</sup> is not a subject of the allegation, then the **Treasurer Trustee**<sup>2</sup> will be informed within 5 working days of its receipt and the **Treasurer Trustee**<sup>2</sup> will determine within a further 5 working days:
  - whether the allegation should be investigated
  - the method of investigation
- if the allegation discloses evidence of a criminal offence, it will immediately be reported to the Board of Trustees who will collectively decide whether or not the evidence supports reporting it to the Police for investigation.

### **Timetable**

The **Chair of Trustees**<sup>2</sup> will:

- within 5 working days, acknowledge the allegation in writing to the whistleblower
- within 10 working days, write to the whistleblower:
  - stating how Peer Support Plus CIO proposes to deal with the allegation
  - stating whether any initial enquiries have been made
  - stating whether further investigations will take place and if not, why not
  - indicating how long it might take to provide a final response; and provide information about whistleblower support mechanisms

**Note:** If the allegation has been made anonymously, the **Chair of Trustees**<sup>2</sup> will be unable to communicate with the whistleblower but must make a note in the Register – see **Monitoring** (below).

### **Support**

The **Chair of Trustees**<sup>2</sup> will take steps to minimise any difficulties which may be experienced as a result of making an allegation. For instance, if a whistleblower is required to give evidence in criminal or disciplinary proceedings the **Chair of Trustees**<sup>2</sup> will arrange for them to receive advice about the legal process and provide information about any practical and wellbeing support that may be available.

Peer Support Plus CIO accepts that whistleblowers need to be assured that the allegation has been properly addressed.

Subject to legal constraints, the **Chair of Trustees**<sup>2</sup> will inform the whistleblower of the outcome of any investigation.

### **Responsibility for the Process**

The **Chair of Trustees**<sup>2</sup> and the **Treasurer Trustee**<sup>2</sup> share overall responsibility for the operation of this process and for determining the administrative procedures to be followed and the format of the records to be kept.

### **Monitoring**

A confidential Register will be kept, only available for inspection on a need-to-know basis by the Board of Trustees, recording the following details:

- name and status (e.g., volunteer) of the whistleblower
- date on which the allegation was received
- nature of the allegation
- name and role of the person who received the allegation
- whether the allegation is being/was investigated and if so by whom
- the outcome of the investigation
- any other relevant details

The **Chair of Trustees**<sup>2</sup> will report annually to the Board of Trustees on the operation of the *Whistleblowing*<sup>1</sup> process and any whistleblowing allegations made during the period covered by the report. The report will be in a form which does not identify whistleblowers.

### **Contacts**

<b>Chair of Trustees</b> <sup>2</sup>	<a href="mailto:chair@peersupportplus.org">chair@peersupportplus.org</a>
<b>Treasurer Trustee</b> <sup>2</sup>	<a href="mailto:treasurer@peersupportplus.org">treasurer@peersupportplus.org</a>
<b>Community Trustee</b> <sup>2</sup>	<a href="mailto:community@peersupportplus.org">community@peersupportplus.org</a>

Alternatively, call **07434 614 829** and leave a message asking for **Chair of Trustees**<sup>2</sup> to call you back.

Alternatively, write to **The Chair of Trustees, Peer Support Plus CIO** at the charity's registered address **c/o 1 Elmete Close, Leeds LS8 2LD** and mark the envelope **Confidential**.

### **Review**

*Whistleblowing*<sup>1</sup> will be reviewed and any revisions agreed by The Board of Trustees no later than 2 years after its last review.

**Notes**           <sup>1</sup> available on our website [peersupportplus.org](http://peersupportplus.org)  
<sup>2</sup> see **Contacts**

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