

## Association of Charitable Foundations

### Whistleblowing Policy 2020

#### 1. Introduction

The Association of Charitable Foundations (ACF) is committed to the highest standards of openness, probity and accountability. We want to foster a culture of openness and honesty, where people can speak openly about any concerns, and then ACF can act quickly to solve problems.

An important aspect of accountability and transparency is a mechanism to enable staff and others to disclose things about ACF that they reasonably consider to be dangerous, illegal, corrupt or simply in need of investigation or improvement. The term 'whistleblowing' covers a disclosure made to a senior employee, a Board member, or an outside person or body by any person who works for or comes into contact with ACF.

Whistleblowing can act as an early warning system that can alert ACF when something is going wrong.

We strongly encourage every person who works for or comes into contact with ACF to disclose any concerns as soon as possible; if they do, we are committed to ensuring they will be supported throughout the process and that their employment rights and conditions will be protected.

#### 2. Scope of the policy

##### 2.1 ACF staff

The Public Interest Disclosure Act 1998 amended the Employment Rights Act 1996 provides protection for workers who raise legitimate concerns about specified matters in the public interest (called 'qualifying disclosures'). The Act protects workers from being dismissed or penalised for disclosing information that they honestly and reasonably suspect exposes malpractice; it covers any person who works for or comes into contact with ACF.

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
- The breach of a legal obligation
- A miscarriage of justice
- An action which creates a risk to health or safety
- Action causing damage to the environment
- An action intended to deliberately conceal any of the above

For a worker to be protected under the Act, they must make the disclosure to the employer (ACF) first, or if they feel unable to do this the disclosure should be made to a prescribed person so that employment rights are protected. Further advice is available from the ACF's Chief Executive, Public Concern at Work, or the Government's website (details at the end of this document).

##### 2.2 The difference between whistleblowing and a complaint or grievance

In practical terms, whistleblowing occurs when a worker raises a concern about danger or illegality that affects others. The person blowing the whistle is usually not directly, personally affected by the danger or illegality. Consequently, the whistleblower rarely has an immediate personal interest in the outcome of any investigation into their concerns. The whistleblower is a witness not a complainant. She/he is not expected to prove their case; rather they raise an issue so that others can address it.

This is different from a complaint or grievance. When someone complains or takes out a grievance, they are saying they have personally been poorly treated. For example, this might involve a breach of individual

employment rights, or harassment, and the complainant is seeking justice and redress for themselves. They will have a personal vested interest in the outcome of the complaint; in these cases, staff should use ACF's Grievance Procedure, and other stakeholders should use the ACF's Complaints Procedure.

### **3. Whistleblowing Procedure**

3.1 In almost all cases, raising the concern internally will be the most appropriate course of action. Concerns may be raised orally or in writing (digital or hard copy) with one or more of the following:

- Line managers
- The Chief Executive or a member of the Executive Leadership Team
- The Chair of the Board of Trustees, or another Trustee

3.2 ACF aims to respect the confidentiality of a whistleblower. However, there may be some circumstances where this is not possible, for example where formal or legal action is needed and they are required as a witness. Should this be the case appropriate support will be offered. Where concerns are raised orally, in some circumstances the whistleblower may later be asked to put the details in writing.

3.3 Investigations will then be carried out by a senior manager, Chief Executive and/or Trustee(s) as soon as possible but within a maximum of one working week.

The investigator's responsibilities are to:

- Treat the matter in confidence within the parameters of the case
- Acknowledge receipt of the complaint in writing/email as soon as practically possible; then as far as possible, keep the whistleblower advised of the investigation's progress and likely timescales, and of the final outcome and any action to be taken as a result
- Ensure that any concerns raised under this policy are reported to the Chair of the Board (or other appropriate trustees if the complaint is about the Chair), and if necessary, to the police, relevant government department or regulatory agency
- Take appropriate steps to ensure that the whistleblower's employment, working environment and working relationships are not prejudiced by the disclosure, and they are not unfavourably treated or penalised in any way as a result of making the disclosure
- Investigate effectively and make an objective judgement concerning the disclosure, and produce a written report detailing the findings of the investigation and the reasons for the judgement.

The Chief Executive or the Chair of Trustees will then decide what action to take, if any.

3.4 The whistleblower's responsibilities are to:

- Raise the issue internally and follow these procedures where possible, giving ACF the opportunity to handle the matter before raising it externally
- Exercise due care to ensure the accuracy of the information provided
- Attend a hearing as a witness or comment on any additional evidence obtained if this proves necessary. In such circumstances, an employee has the right to be accompanied by a paid work colleague or recognised trade union official
- Maintain confidentiality as set out in ACF's Data Protection Policy

3.5 This policy encourages individuals to put their name to any disclosures they make. Concerns expressed anonymously are much less credible, but they may be considered at the discretion of the Chief Executive. In exercising this discretion, the factors to be taken into account will include:

- The seriousness of the issues raised
- The credibility of the concern
- The likelihood of confirming the allegation from attributable sources

3.6 If the whistleblower is not satisfied that their concern is being properly dealt with by the Investigating officer, they have the right to raise it in confidence with the Chief Executive or the Chair of the Board of Trustees.

If the investigation finds the allegations unsubstantiated and all internal procedures have been exhausted, but the complainant is not satisfied with the outcome of the investigation, ACF recognises the lawful rights of employees and ex-employees to make disclosures to public bodies, such as the Health and Safety Executive, the Audit Commission, the Fundraising Regulator, the Independent Fundraising Standards and Adjudication Panel for Scotland, the Scottish Charity Regulator or the Charity Commission. Contact details are given below.

- 3.7 It is a disciplinary matter to victimise a bona fide whistleblower or to maliciously make false allegations.

#### **Further Information**

Any staff member who is unsure how to raise a concern, or who would like confidential outside advice, can contact the independent organisation Protect (previously Public Concern at Work) Tel: 020 3117 2520 or online at [www.pcaw.org.uk/](http://www.pcaw.org.uk/)

Information and advice is also available at <https://www.gov.uk/whistleblowing>, including information on prescribed persons.

Charity Commission: <https://www.gov.uk/whistleblowing>

Scottish Charity Regulator: [www.oscr.org.uk/charities/raise-a-concern-about-a-charity](http://www.oscr.org.uk/charities/raise-a-concern-about-a-charity)

Independent Fundraising Standards and Adjudication Panel for Scotland:  
<https://fundraisingcomplaints.scot>

The ACF is a Charity registered in England and Wales No. 1105412