

---

## WHISTLE BLOWING POLICY AND PROCEDURE

### 1. Introduction

1.1 *Open Country* is committed to achieving the highest possible standards of service and ethical standards.

1.2 Whistle Blowing is the reporting by workers, ex-workers or volunteers, of wrongdoing such as fraud, malpractice, mismanagement, breach of health and safety law or any other illegal or unethical act either on the part of management, the trustees or by fellow employees.

### 2. Purpose

2.1 This policy aims to:

- Encourage workers to feel confident in raising concerns.
- Establish a fair and impartial investigative procedure.
- Provide avenues for workers to raise concerns & receive appropriate feedback.
- Ensure that workers receive a response to concerns and are aware of how to pursue them if they are not satisfied.
- Ensure that workers will be protected from any reprisals or victimisation by the Charity, provided that there is reasonable belief that the matter disclosed intends to show wrongdoing and that the disclosure has been made in an appropriate manner and in good faith.

### 3. Scope

3.1 This policy may be used by all workers to raise concerns where the well being of others or the Charity itself is at risk.

3.2 The term worker broadly includes employees, volunteers, and a person who is or was subject to a contract to undertake work or services for the Charity.

3.3 The Whistle Blowing Policy is designed to sit alongside the *Grievance Policy and Procedure* and the *Complaints Procedure*. As a guideline, concerns, which should be raised through these routes, are as follows:

- Employment related issues should be raised through the *Grievance Policy and Procedure*.
- The *Complaints Procedure* can be used for complaints about staff or trustees.

## 4. Equal Opportunities

4.1 The whistle blowing procedure must always be applied fairly and in accordance with employment law and our *Equality, Diversity & Inclusion Policy*.

## 5. Responsibilities

5.1 Open Country is responsible for maintaining fair, consistent and objective procedures for matters relating to whistle blowing.

5.2 The trustees have overall responsibility for the internal organisation, control and management of the Charity.

## 6. Timing

6.1 The whistle blowing procedure should normally be conducted within the timescales laid down in this document. However, if there is a valid reason to do so, timescales can be varied. If this is initiated by management, the employee should be given an explanation if this occurs and informed when a response or meeting can be expected. Delays should not normally exceed 10 working days.

## 7. What to raise concerns about

- a) That a crime has been committed, is being committed, or is likely to be committed.
- b) That a person has failed, is failing, or is likely to fail to comply with any legal obligation to which they are subject, for example a breach of contract.
- c) That a miscarriage of justice has occurred, is occurring, or is likely to occur.
- d) That the health and safety of an individual has been, is being, or is likely to be endangered.
- e) That the environment has been, is being or likely to be damaged.
- f) That information tending to show any of a) to e) above has been concealed or is likely to be deliberately concealed.

## 8. Open Country assurances to workers

8.1 To ensure workers have the right to disclose a concern.

8.1.1 Workers have the right to disclose a concern/issue if the Charity does not deal with the matter. However, the duty of fidelity is implied by the law in every contract of employment and prohibits employees from disclosing employers' confidential information, unless it is in the public interest that information is disclosed or unless the Charity fails to properly consider or deal with the issue.

8.2 To protect workers.

8.2.1 If a worker makes a disclosure on one or more of the matters listed above and they have a reasonable belief that the concern is real and they are acting in good faith, the worker will not suffer any detriment, even if after investigation it transpires that the concern is unfounded. Open Country will not tolerate the harassment or victimisation of any worker raising a genuine concern.

8.2.2 If a worker requests that their identity is protected, the Charity will not disclose it unless required to do so in law. If the situation arises where the

Charity is unable to resolve the concern without revealing the workers' identity (for instance because the workers' evidence is needed in court), the Charity will discuss with the worker how the matter should proceed. However, it must also be stated that if a worker chooses not to disclose their identity it will be much more difficult for us to look into the matter or to protect their position or to give them feedback. Accordingly, while we will consider anonymous reports, it will be impossible to apply all aspects of this policy for concerns raised anonymously.

## **9. Internal procedure**

### **9.1 Stage one - notification**

9.1.1 The worker (the *Representer*) raising the concern should do so orally or in writing to their line manager or to the Chair of Trustees. The Representer has the right to have the matter treated confidentially.

9.1.2 If the line manager or the Chair of Trustees believes the concern to be genuine and that it is appropriate to use the Whistle Blowing procedure, the manager should contact an Assessor, to be drawn from Social Services.

9.1.3 If the Representer feels unable to raise their concern with their line manager or the Chair of Trustees in the first instance, they may contact the Assessor directly. If this occurs, the Representer will be asked to explain why they feel unable to raise the concern with their line manager or the Chair of Trustees.

### **9.2 Stage two – the meeting**

9.2.1 The Assessor will interview the Representer within ten working days, in confidence, or earlier if there is an immediate danger to loss of life or serious injury and will:

- Obtain as much information as possible from the Representer about the grounds for the belief of malpractice;
- Consult with the Representer about further steps which could be taken;
- Inform the Representer of appropriate routes if the matter does not fall within the Open Country Whistle Blowing Procedure;

9.2.2 At the interview with the Assessor, the Representer may be accompanied by a friend or a work colleague. The Assessor may be accompanied by a note taker.

### **9.3 Stage three – the outcome**

9.3.1 Within ten working days of the interview, the Assessor will recommend to the Chair of Trustees or Chief Officer one or more of the following:

- The matter be investigated internally by the Charity.
- The matter be investigated by the external auditors appointed by the Charity.
- The matter be reported to the Police.

9.3.2 The grounds on which no further action is taken may include:

- The Assessor is satisfied that, on the balance of probabilities, there is no evidence that malpractice has occurred, is occurring or is likely to occur;
- The Assessor is satisfied that the Representer is not acting in good faith;
- The matter is already (or has been) the subject of proceedings under one of the Charity's other procedures or policies;

- The matter concerned is already the subject of legal proceedings, or has already been referred to the police, social services or other public authority.

9.3.3 The recipient of the recommendation (Chair of Trustees or Chief Officer) will ensure that it is implemented unless there is good reason for not doing so in whole or in part. Such a reason will be reported to the next meeting of the Trustees.

9.3.4 The conclusion of any agreed investigation will be reported by the Assessor to the Representer in writing within twenty eight days.

9.3.5 If the Representer has not had a response within the above time limits, he or she may appeal to the Charity's external auditors, but will inform the Assessor before doing so.

9.3.6 The Representer may at any time disclose the matter on a confidential basis to a solicitor for the purpose of taking legal advice.

## 10. External contacts

10.1 Whistle blowing to an external body without first going through the internal procedure is inadvisable without compelling reasons. A reason may be that the Representer is not content with the conclusion of the Assessor. In particular, this means being careful about what is said to the media. Compelling reasons could be the involvement of the senior managers, serious health and safety issues or possible discrimination.

10.2 If you do not feel able to raise your concern in the ways outlined above, you should consult the *Public Interest Disclosure Act* for information about other routes by which a disclosure may be made.

## 11. Malicious Accusations

11.1 Deliberately false or malicious accusations made by a Representer will be dealt with under the Charity's disciplinary procedure.

11.2 The Charity will ensure the Representer is protected from any form of victimisation or discrimination.

## 12. Review

12.1 This policy will be reviewed every year.

Policy prepared by:	David Shaftoe
Approved by Board on:	
Last updated by David Shaftoe on:	12 <sup>th</sup> January 2021
Next review date:	31 <sup>st</sup> March 2022