

BKY WHISTLEBLOWING POLICY

Introduction

BKY has no employees at present, but this could change. Whistleblowing by volunteers will be subject to the relevant areas of this policy, although not covered in the Act.

The Public Interest Disclosure Act, which came into effect in 1999, gives legal protection to employees against being dismissed or penalised by their employers as a result of publicly disclosing certain serious concerns. The organisation has endorsed the provisions set out below so as to ensure that no members of staff or volunteers should feel at a disadvantage in raising legitimate concerns.

It should be emphasised that this policy is intended to assist individuals who believe they have discovered malpractice or impropriety. It is not designed to question financial or business decisions taken by the organisation nor should it be used to reconsider any matters which have already been addressed under harassment, complaint, disciplinary or other procedures. **Once the whistleblowing procedures are in place, it is reasonable to expect staff and volunteers to use them rather than air their complaints outside the organisation.**

Scope of Policy

This policy is designed to enable volunteers and employees of the organisation to raise concerns internally and at a high level and to disclose information which the individual believes shows malpractice or impropriety. This policy is intended to cover concerns which are in the public interest and may at least initially be investigated separately but might then lead to the invocation of other procedures e.g. disciplinary. These concerns could include

- Financial malpractice or impropriety or fraud
- Failure to comply with a legal obligation or Statutes
- Dangers to Health & Safety or the environment
- Criminal activity
- Improper conduct or unethical behaviour
- Attempts to conceal any of these

Safeguards

i. Protection

This policy is designed to offer protection to those volunteers and employees of BKY who disclose such concerns provided the disclosure is made:

- in good faith
- in the reasonable belief of the individual making the disclosure that it tends to show malpractice or impropriety and if they make the disclosure to an appropriate person (see below). It is important to note that no protection from internal disciplinary procedures is offered to those who choose not to use the procedure. In an extreme case malicious or wild allegations could give rise to legal action on the part of the persons complained about.

Staff are protected by the law. Under this policy, whether you are staff or a volunteer, you should not be treated unfairly or lose your job or position in the community, if you report any of the following: a criminal offence (e.g. fraud), someone's health and safety being in danger, a risk or actual damage to the environment, a miscarriage of justice, the company breaking the law (e.g. it doesn't have the right insurance), someone covering up wrongdoing. You can raise your concern at any time about an incident that happened in the past, is happening now, or you believe will happen in the near future.

Personal grievances (e.g. bullying, discrimination, harassment) are not covered by whistleblowing law, unless your particular case is in the public interest. Personal grievances must be reported to the Chair.

If you are unsure whether your grievance is covered by whistleblowing law, we recommend seeking independent advice, for example by contacting Public Concern At Work. Their website can be found at <http://www.pcaaw.org.uk/> and their phone number is 020 7404 6609.

ii. Confidentiality

The organisation will treat all such disclosures in a confidential and sensitive manner. The identity of the individual making the allegation may be kept confidential so long as it does not hinder or frustrate any investigation. However, the investigation process may reveal the source of the information and the individual making the disclosure may need to provide a statement as part of the evidence required.

iii. Anonymous Allegations

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 organisation.

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

iv. Untrue Allegations

If an individual makes an allegation in good faith, which is not confirmed by subsequent investigation, no action will be taken against that individual. In making a disclosure the individual should exercise due care to ensure the accuracy of the information. If, however, an individual makes malicious or vexatious allegations, and particularly if he or she persists with making them, disciplinary action may be taken against that individual or a volunteer may be asked to leave the community, subject to the provisions laid down in BKY's Memorandum and Articles of Association.

Procedures for Making a Disclosure

On receipt of a complaint of malpractice, the person who receives and takes note of the complaint, must pass this information as soon as is reasonably possible, to the Chair or a Council member as follows:

- Complaints of malpractice will be investigated by the Chair unless the complaint is against the Chair or is in any way related to the actions of the Chair. In such cases, the complaint should be passed to the Council and the Council will allocate someone from its number to investigate.
- Should none of the above be suitable or acceptable to the complainant, then the complainant may approach the Charity Commission for England and Wales. They can advise the complain-

ant on the implications of the legislation and the possible internal and external avenues of complaint open to them. Their contact details are below.

Tel: 0300 066 9197

Email: whistleblowing@charitycommission.gsi.gov.uk Website: www.gov.uk/charity-commission

If there is evidence of criminal activity then the investigating officer should inform the police. The organisation will ensure that any internal investigation does not hinder a formal police investigation.

Timescales

Due to the varied nature of these sorts of complaints, which may involve internal investigators and / or the police, it is not possible to lay down precise timescales for such investigations. The investigating officer should ensure that the investigations are undertaken as quickly as possible without affecting the quality and depth of those investigations.

The investigating officer, should as soon as practically possible, send a written acknowledgement of the concern to the complainant and thereafter report back to them in writing the outcome of the investigation and on the action that is proposed. If the investigation is a prolonged one, the investigating officer should keep the complainant informed, in writing, as to the progress of the investigation and as to when it is likely to be concluded.

All responses to the complainant should be in writing and sent to their home address.

Investigating Procedure

The investigating officer should follow these steps:

- Full details and clarifications of the complaint should be obtained.
- The investigating officer should inform the person against whom the complaint is made as soon as is practically possible. The member of staff or volunteer will be informed of their right to be accompanied by a trade union or other representative at any future interview or hearing held under the provision of these procedures.
- The investigating officer should consider the involvement of the organisation's auditors and the Police at this stage and should consult with the Chair.
- The allegations should be fully investigated by the investigating officer with the assistance where appropriate, of other individuals / bodies.
- A judgement concerning the complaint and validity of the complaint will be made by the investigating officer. This judgement will be detailed in a written report containing the findings of the investigations and reasons for the judgement. The report will be passed to the Chair or the Council as appropriate.
- The Chair with the Council, or as necessary the Council without the Chair, will decide what action to take. If the complaint is shown to be justified, then they will invoke the disciplinary or other appropriate procedures.
- The complainant should be kept informed of the progress of the investigations and, if appropriate, of the final outcome.
- If appropriate, a copy of the outcomes will be passed to the organisation auditors to enable a review of the procedures.

If the complainant 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 Chair or one of the designated persons described above.

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, the organisation recognises the lawful rights of employees and ex-employees to make disclosures to prescribed persons (such as the Health and Safety Executive, the Audit Commission, or the utility regulators), or, where justified, elsewhere.

If you are treated unfairly after whistleblowing

BKY is committed not to treat any employees or volunteers unfairly.

If you are an employee and feel that you have been treated unfairly after blowing the whistle, you can take your case to an employment tribunal. You can also obtain further information from ACAS (<http://www.acas.org.uk> or 0300 123 1100), Citizen's Advice (www.citizensadvice.org.uk or 03454 040505) or Public Concern at Work (<http://www.pcaw.org.uk/> or 020 7404 6609). If you reported your concern anonymously, you may find it harder to argue that your unfair treatment was as a result of your whistleblowing. You must raise any claim of unfair dismissal within three months of your employment ending.