



Guidance for Cathedrals: Whistleblowing

Whistleblowing is the term used to describe when a person raises a concern that is in the public interest against their employer. The Public Interest Disclosures Act 1998 provides legal protection to employees and workers who whistleblow, to prevent them from being treated unfairly or losing their job. It was not previously thought that this protection extends to office holders or volunteers. However, in a recent judgment,¹ the Supreme Court decided that judicial officers can seek the protection of whistleblowing legislation. The position regarding clergy has not been tested but, taking a cautious approach, we have assumed that the courts would afford the same protection to clergy office holders.

In addition, it is considered best practice for charities to choose to extend similar protections to volunteers. Therefore, the Chapter's whistleblowing policy should make clear that the legal protection applies to employees, workers and office holders and that the Chapter has chosen to extend this same protection to volunteers.

Further information on whistleblowing can be found here:

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

Your whistleblowing policy should allow those raising a concern to feel confident that they will be taken seriously and that their concern will be properly investigated. It should also provide a framework for raising that concern. However, if those raising the concern feel that the matter should be reported to an external body your policy should identify other options (see paragraph 18 below) including the Charity Commission. Charity Commission guidance on whistleblowing can be found here:

<https://www.gov.uk/government/publications/whistleblowing-disclosures-made-to-the-charity-commission-for-england-and-wales-2018-to-2019/whistleblowing-disclosures-made-to-the-charity-commission-for-england-and-wales-2018-to-2019>

Introduction

1. Whistleblowing plays a valuable role in detecting and reducing serious problems within organisations. This guidance encourages Chapters to adopt a policy that promotes the reporting of suspected wrongdoing and outlines steps that should be taken when concerns are raised, how those raising concerns can be encouraged and what should

¹ *Gilham v Ministry of Justice* [2019]

happen after such concerns are raised. The policy should also reassure people that they are able to raise genuine concerns without the fear of reprisal or victimisation.

2. The aim of your policy should be:
 - (a) To encourage a culture of openness and accountability, promoted at all levels
 - (b) To encourage people to report suspected wrongdoing as soon as possible in the knowledge that their concerns will be taken seriously and investigated promptly and as appropriate and that, where possible, their confidentiality will be respected
 - (c) To provide employees, workers, office holders and volunteers with guidance as to how to raise those concerns
 - (d) To reassure people that they should be able to raise genuine concerns without fear of reprisal.

Therefore, your policy should be accessible by all and publicised widely to make sure it is properly understood.

What is Whistleblowing?

3. 'Whistleblowing' refers to the internal or external disclosure of malpractice and serious suspected wrongdoing as well as illegal acts, or omissions, at work. It covers, for example, how we raise funds, how we commission work or make payments and where there has been a breach of a legal, statutory or regulatory requirement or unethical behaviour.
4. Whistleblowing should be seen as a normal part of upholding the cathedral's values.
5. Whistleblowing relates to the public interest and it is this characterisation that underpins the statutory protection under the Employment Act 1996 (as amended by the Public Disclosures Act 1998). Concerns that relate to personal grievances such as bullying, harassment, discrimination etc. are not protected disclosures unless the particular case is in the public interest. However, Chapter is encouraged to support those who raise such concerns through the appropriate policy.

Protected disclosures

6. A disclosure made in the public interest or made with the reasonable belief that it is in the public interest, is a "protected disclosure". Protected disclosures are likely to be disclosures pertaining to one or more of the following:
 - (a) A criminal offence
 - (b) A failure to comply with any legal obligation
 - (c) A miscarriage of justice
 - (d) The putting of someone's health or safety in danger
 - (e) Damage to the environment
 - (f) Deliberate concealment of information relating to any of the above
7. Although volunteers do not fall under the remit of the Public Interest Disclosure Act 1998, Chapter should stress within its policy document its commitment to the highest

possible standards of openness, probity and accountability and a desire to encourage a culture where raising concerns is seen as a normal part of upholding common values. As such, it should be made clear that the policy will, in so far as is reasonably possible, extend the same protection to volunteers as the law provides to employees and workers.

The need for encouragement and a culture of openness

8. The decision to raise a concern is often difficult and employees, workers, volunteers and office holders can be encouraged and supported, by asking them to initially consider a number of key questions to determine whether their concern is reasonable.
 - (a) What do I think is happening?
 - (b) What (if any) evidence do I have?
 - (c) Who is doing it?
 - (d) Why might it be wrong?
 - (e) What clear explanations might there be?
 - (f) May others be aware of the issue(s)?
 - (g) Who may I report this to?
9. Having done so, those with concerns should feel confident that their concerns will be taken seriously and investigated.

Mechanism for raising a concern

10. Chapter should ensure that it has its own internal process for managing and investigating matters raised and a robust and confidential framework should be adopted. As such, it may be that concerns should initially be reported directly to a line manager / volunteer coordinator or a designated whistleblowing officer if that would not be appropriate. A designated whistleblowing officer should be suitably experienced and qualified with the seniority and standing to be widely trusted to perform the role discretely and in accordance with the policy. Suitable training may also need to be provided to the whistleblowing officer to assist them to perform their role.
11. For those wishing to raise a concern, Chapter should have a coherent and clear process. It is anticipated that anyone with a concern relating to a serious wrongdoing may initially raise their concern with their immediate line manager / volunteer coordinator, or with the Whistleblowing Officer, Chief Operating Officer or Dean. However, if this is felt to be inappropriate by the individual, they should have the ability to raise their concern directly with a member of Chapter. The identity of those Chapter members willing to fulfil this role and their contact details should be available within Chapter's policy document. These Chapter members should be expected to take the details of the concern and any contact details so that the matter can be investigated.

Undertaking an Investigation

12. The Whistleblowing Officer (in discussion with the Chief Operating Officer or Dean where appropriate) should decide how the investigation should be conducted. Where

the matter has been raised with a manager, this should be reported to the Chief Operating Officer and the Dean (where appropriate) to decide how the investigation should be conducted. One of the designated Chapter members should be informed about the initial investigation and its outcome Confidentiality should be maintained wherever possible.

13. Once the initial investigation has concluded, the whistleblower should be informed of the result albeit there may be some aspects which remain confidential, e.g. resulting disciplinary proceedings.
14. If the Whistleblowing Officer (or the person who conducted the investigation where the Whistleblowing Officer could not be involved) decides that the matter should not be taken further but the whistleblower remains concerned, a desk top review of the investigation documentation by the designated Chapter member should be undertaken followed by a one-to-one interview with the whistleblower. After this, if the whistleblower remains concerned, they should be able to raise the matter with the whole Chapter.
15. After the investigation has been completed, any necessary changes to rectify errors resulting from the wrongdoing should be implemented where possible. If not already involved, the wrongdoer's head of department (and any other relevant people) in consultation with appropriate advisors, should review the risks and create mitigating controls/actions as appropriate (respecting the confidentiality of the whistleblower as appropriate). The rest of Chapter and any other governing bodies responsible for the area of work should be informed.

Confidentiality

16. Your policy should encourage people to voice concerns openly. However, some whistleblowers may raise their concern confidentially and where possible you should make every effort to keep their identity secret. However, it is acknowledged that those undertaking the investigation will need to know the identity of the whistleblower and your policy should make it clear that whilst the identity of the whistleblower will be treated as confidential, their identity is likely to be disclosed to the individual investigating the matter (who will not be a person related to the concern). Given this commitment to confidentiality, your policy should encourage people not to raise concerns anonymously where possible.
17. However, your policy should recognise that there are circumstances where an individual may feel threatened or scared for their personal safety and in such circumstances may be unwilling to speak even on a confidential basis. As such, you should make clear that you will accept anonymous concerns, but that where concerns are raised anonymously you should ask that as much detail as possible is provided. Furthermore, if those raising concerns are concerned about possible reprisals if their identity is revealed, your policy should direct people to a Whistleblowing Officers, a designated member of Chapter, the Chief Operating Officer or the Dean who can then ensure appropriate measures are be taken to preserve confidentiality.

External Disclosures

18. Your policy should provide an internal mechanism for reporting, investigating and remedying any wrongdoing in the workplace and in many cases a whistleblower may not find it necessary to alert anyone externally. However, your policy should highlight the ability to report concerns directly to the Bishop, Diocesan Secretary, Church Commissioners or the Charity Commission² if appropriate. The Charity Commission are a 'prescribed person' under the Public Interest Disclosure (Prescribed Persons) Order and have a regulatory interest in encouraging people supporting charities to report their serious concerns so that they are better able to detect problems. Guidance on 'Prescribed Persons' can be found here:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/604935/whistleblowing-prescribed-persons-guidance.pdf

19. Whilst volunteers do not have statutory protections if they report serious concerns to the Charity Commission, the Charity Commission has said that it recognises that such whistleblowers face many of the personal challenges and risks experienced by workers and therefore need the same sort of engagement from them. Further information can be found at the following link:

<https://www.gov.uk/guidance/report-serious-wrongdoing-at-a-charity-as-a-worker-or-volunteer>

Policy Review

20. Your policy should provide for its regular periodic review so it the whistleblowing system in place can be monitored and improved.

Other Resources

21. The independent whistleblowing charity, Protect (<https://protect-advice.org.uk/advice-line/>) operate a confidential and independent advice line managed by qualified lawyers with a wealth of experience in the law on speaking up and whistleblowing and your policy should also provide contact details to this organisation.

² A Serious Incident Report may need to be made.

TEMPLATE POLICY FOR CATHEDRALS

[Name of cathedral]

WHISTLEBLOWING POLICY

The Chapter is committed to being open, honest and accountable. It encourages a free and open culture in its dealings between the members of Chapter, office holders, employees, workers and volunteers in the cathedral. Tackling problems is vitally important to maintaining the Chapter's financial health and achieving its charitable aims.

This policy aims to help office holders, employees, workers and volunteers in the cathedral to raise any serious concerns they may have about colleagues or anything taking place in the cathedral with confidence and without having to worry about being victimised, discriminated against or disadvantaged in any way as a result.

This policy is written in the context of the Public Interest Disclosure Act 1998 (the “**Act**”) and other legislation which protects employees and workers who ‘blow the whistle’ on malpractices within their organisation.

Although it was not previously thought that statutory protection under the Act extended to office holders or volunteers, in a recent judgment,³ the Supreme Court decided that judicial officers can seek the protection of whistleblowing legislation. The position regarding clergy has not been tested but, taking a cautious approach, this policy assumes that the courts would afford the same protection to clergy office holders.

In addition, as it is considered best practice for charities to choose to extend similar protections to volunteers, the Chapter has chosen to extend the same protection to volunteers in so far as is possible and to treat all individuals making a disclosure in the spirit of the Act.

1. Who does this policy apply to?

This policy applies to everyone who works for and in or volunteers in the cathedral. This means employees, workers, office holders, volunteers, interns and contractors.

2. What is Whistleblowing?

‘Whistleblowing’ refers to the internal or external disclosure of malpractice and serious suspected wrongdoing as well as illegal acts, or omissions, at work. It covers, for example, how we raise funds, how we commission work or make payments and where there has been a breach of a legal, statutory or regulatory requirement or unethical behaviour.

³ *Gilham v Ministry of Justice* [2019]

3. What types of concerns are covered by this Policy?

To use this whistleblowing policy and be legally protected under the Act, you must make a disclosure about a serious concern. This is known under the Act as a 'qualifying disclosure'. This means you have information and reasonably believe that one or more of the following matters is happening, has taken place, or is likely to happen in the future:

- (a) a criminal offence (including fraudulent and corrupt behaviour, e.g. theft, fraud or malpractice)
- (b) a miscarriage of justice
- (c) an act creating risk to health and safety
- (d) an act causing damage to the environment
- (e) a breach of any other legal obligation, or
- (f) concealment of any of the above

You do not need to have proof that such an act is being, has been, or is likely to be, committed. You do, however, need to hold a reasonable belief of such an action having been, being or likely to be carried out.

If you feel unable to whistleblow internally, the matter may be reported directly to the relevant regulator, such as the Charity Commission or Church Commissioners,

4. What concerns cannot be raised as whistleblowing under this policy?

This whistleblowing policy does not apply to:

Complaints: A complaint that is an expression of your dissatisfaction which calls for a response. If you want to make a complaint about the cathedral you should use our complaints policy [link].

Safeguarding concerns: For safeguarding concerns please contact [] at [email] or [phone number].

Concerns about other organisation: If you have concerns about the behaviour of another Church of England organisation, you should raise them through that organisation, following any whistleblowing procedures it has.

Employment related concerns: This policy does not deal with any complaints employees may have about their own employment position, which should be addressed through the cathedral's [Grievance Procedure⁴].

5. How to raise a concern

You should raise your whistleblowing concern as soon as possible. This will make it easier to act and to enable any problems to be resolved or reported quickly.

You can make your disclosure orally but written disclosures are preferable as these will make the process more efficient and effective. In your disclosure, you should:

⁴ Insert relevant procedures

- (a) provide any relevant context and background, including relevant dates, venues, names etc
- (b) state clearly the reason why the situation causes for concern.

You must say that you are raising your concern using the whistleblowing policy and whether you wish your identity to be kept confidential. While we will make every effort to deal with your case confidentially, depending on the circumstances of the case this may not always be possible (e.g. if the police are involved). Where this is the case, you will be informed of this and the reasons why it was not possible. We prefer non-anonymous disclosures, as anonymity often makes it difficult to properly investigate concerns, protect employees or give feedback on outcomes.

The [complete as necessary⁵] is designated to handle whistleblowing concerns in the cathedral and is the cathedral's Whistleblowing Officer.

You should report your concern in the first instance to your line manager/volunteer co-ordinator where appropriate, or to the Whistleblowing Officer. If the matter concerns the Whistleblowing Officer, it should be raised with the [Chief Operating Officer⁶] or the Dean.

If you are unsure whether to use this procedure, or you want independent advice at any stage, you should contact your trade union or an independent organisation such as Protect.

6. Protecting the individual raising the concern

If you raise a concern which you believe to be true, the Chapter will take appropriate action to protect you from any harassment, victimisation or bullying. Employees and workers who raise a genuine concern under this policy will not be at risk of losing their job, nor will it influence any unrelated disciplinary action or redundancy procedures.

The matter will be treated confidentially but if the concern cannot be resolved without revealing your identity, the Whistleblowing Officer⁷ will discuss with you whether and how to proceed.

You should note that they will not be protected from the consequences of making a disclosure if, by doing so, you commit a criminal offence.

7. How will the Chapter deal with the concern?

How the concern will be dealt with, will depend on what it involves. It is likely that further enquiries and/or investigation will be necessary. The concern may be investigated by the Whistleblowing Officer⁸, through the disciplinary process or it may be referred to the police, Diocesan Safeguarding Adviser, a regulator, other agencies, an external auditor or an independent investigator.

Typically, the matters raised may result in one or more of the following:

- (a) no action required
- (b) action being taken under another policy or procedure

⁵ Insert role

⁶ Replace with title used in your cathedral e.g. Administrator

⁷ Or other person managing the process, where the complaint involves the Whistleblowing Officer).

⁸ Or other person managing the process, where the complaint involves the Whistleblowing Officer).

- (c) an internal investigation under this policy
- (d) a referral to the police or other relevant statutory body
- (e) referral to the Church Commissioners
- (f) a referral to cathedral's external auditors
- (g) a Serious Incident Report being made to the Charity Commission
- (h) an independent enquiry.

It may be necessary for you to give evidence in criminal or disciplinary proceedings.

The Whistleblowing Officer⁹ will give you feedback on the progress and outcome of any investigation, wherever possible¹⁰.

8. Allegations that are malicious or known to the individual making them to be false

If it is found that you have knowingly or maliciously makes an untrue allegation or you are involved in any way in the malpractice, wrongdoing or illegal acts or omissions, the Chapter will take appropriate action in accordance with the appropriate policy.

If the suspicions are not confirmed by an investigation, the matter will be closed and a record retained. Any person raising a concern under this policy will not suffer any detriment for raising the concern unless they are found to have made a malicious allegation.

9. Policy Review

This policy should be reviewed every [3¹¹] years.

Date adopted by Chapter:

⁹ Or other person managing the process, where the complaint involves the Whistleblowing Officer).

¹⁰ You may wish to expand this section to reflect any relevant processes suggested in paras 12 – 15 of the Guidance above.

¹¹ Insert as appropriate. The review should include a monitoring of the policy's effectiveness and any improvements identified should be made,