



**SA GEMEENTE**  

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**SA CONGREGATION**

# **South African Congregation - Whistleblowing Policy**

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All staff, trustees and volunteers of the South African Congregation are encouraged to report any concerns involving:

- Fraud or any other crime in which other trustees/staff members are involved
- A risk to the health and safety of you, your colleagues or the public
- a breach of the Charity's Legal Obligations and duties
- a miscarriage of Justice

### **What is whistle blowing?**

In their good practice guide, the whistleblowing charity Public Concern at Work define whistleblowing as “a worker raising a concern about wrongdoing, risk or malpractice with someone in authority either internally and/or externally (i.e. regulators, media, MPs).” The first step in deciding which process to follow is to decide on the nature of the issue or concern. If the concern or issue is a personal complaint, for example a trustee that feels they have been unfairly treated or if the complaint is against other individuals or the organisation itself, then they may wish to place an internal complaint, in the first instance, to the Chairman of the Board of Trustees. Charity employees or trustees can report concerns about certain categories of serious wrongdoing at their charity to the Charity Commission.

If you are unsure which process to follow, then you might wish to contact Public Concern at Work for advice using their advice line 020 7404 6609 or via email to [whistle@pcaw.org.uk](mailto:whistle@pcaw.org.uk).

### **Protection under the Public Interest Disclosure Act**

Employees have some protection in law under the Public Interest Disclosure Act from detrimental treatment or victimisation from their employer if, in the public interest, they report concerns about serious wrongdoing at their charity to the commission, provided that the concerns they report meet the conditions in the Act for a 'protected disclosure'.

The Act protects most employees in the charity sector who report concerns about certain serious matters about their employer to the commission. **The Act does not apply to voluntary workers - this includes charity trustees and charity volunteers.**

#### **How the Act protects charity employees**

The Act protects employees in a number of ways, for example:

- if a charity employee is dismissed because they have made a protected disclosure, that will be treated as unfair dismissal

- they have a right not to be subjected to any 'detriment' by their employers on the ground that they have made a protected disclosure, and to present a complaint to an employment tribunal if they suffer detriment as a result of making a protected disclosure

### **What type of disclosures are protected?**

For a disclosure to the commission regarding a charity to be protected by the Act's provisions:

- it must relate to at least one of the following matters that 'qualify' for protection:
  - a criminal offence
  - the breach of a legal obligation
  - a miscarriage of justice
  - a danger to the health and safety of any individual
  - damage to the environment
  - deliberate concealment of information tending to show any of the above five matters
- the employee must:
  - reasonably believe that the relevant failure relates to 'the proper administration of charities and funds given, or held, for charitable purposes'
  - reasonably believe that the information disclosed and any allegation contained in it are substantially true

It should be noted that where an employee is victimised for making a disclosure to the commission, any claim they may have under the Act is against his or her employer and not against the commission.

### **How the commission deals with disclosures from whistleblowers**

The commission considers whistleblowing disclosures in the same way that it considers complaints about charities from other sources.

The action the commission will take as a result of the concerns brought to its attention will of course depend on the nature of these concerns. The commission will respect confidences so far as it is able, with due regard to the individual's rights to privacy under data protection and human rights legislation. However, a person who is subject to any enquiries made by the commission is entitled to know the

nature of the allegations being made. Any person criticised by the commission as a result of any enquiry has a right to be told the nature of the evidence upon which the criticism has been based.

While the commission will take every step to try to ensure that a complainant's identity is not revealed without their consent, in some cases the nature of the allegations or evidence may give an indication as to their source. Also, in limited cases there may be an obligation to reveal information under freedom of information legislation or by order of the court in legal proceedings.

Information obtained in the course of an inquiry made under s46 of the Charities Act 2011 may, in the public interest be published in an inquiry report.

### **Serious incidents that needs to be report**

Report any serious incident that results in – or risks - significant:

- loss of your charity's money or assets
- damage to your charity's property
- harm to your charity's work, beneficiaries or reputation

Serious incidents include:

- fraud, theft or other significant loss
- a large donation from an unknown or unverified source
- links to terrorism or to any organisation that's 'proscribed' due to terrorist activity
- a disqualified person acting as a trustee
- not having a policy to safeguard your charity's vulnerable beneficiaries
- not having 'vetting' procedures in place to check your prospective trustees, volunteers and staff are eligible
- suspicions, allegations or incidents of abuse of vulnerable beneficiaries

Any actual or suspected criminal activity within or involving your charity is a serious incident. Report a serious incident if your charity is being investigated by the police or another regulator for any reason.

If you and the other trustees fail to report a serious incident, the commission may consider this to be mismanagement and take regulatory action.

### **How to report a serious incident**

Report an actual or suspected incident by emailing the Charity Commission as soon as you are aware of it. Make sure you say what happened and how you are dealing with the incident. You need to do this even if you've already reported it to the police or another regulator.

The commission's detailed guidance on reporting serious incidents explains what to report for each type of incident.

**The Charity Commission asks that whistleblowing reports are made in writing to [whistleblowing@charitycommission.gsi.gov.uk](mailto:whistleblowing@charitycommission.gsi.gov.uk)**

**For internal complaints the Chairman of the Board of Trustees, Morne van den Berg can be contacted at [morne.vandenberg@sky.com](mailto:morne.vandenberg@sky.com)**