

Whistleblowing Policy (public interest disclosure)

1. Purpose and Scope

All organisations face the risk of things going wrong or of unknowingly harbouring malpractice. Action East Devon (AED) believes it has a duty to identify such situations and to take appropriate measures to remedy the situation. Through setting high standards and encouraging a culture of openness within the charity, malpractice can be prevented.

Action East Devon receives public money to support the public and as a charity the Trustees have an obligation to demonstrate that Action East Devon complies with the law, is well run and is accountable. The Charity Commission requires Trustees to report any [‘serious incident’](#) which is an adverse event which results in or risks:

- Significant harm to the charity’s beneficiaries, staff, volunteers or others who come into contact with the charity through its work,
- Significant loss of the charity’s money or assets,
- Serious damage to the charity’s property,
- Significant harm to the charity’s work or reputation.

This ‘Whistleblowing’ Policy (Public Interest Disclosure) sets out the way in which a member of staff or a volunteer can raise any genuine concerns they may have about malpractice, in the public interest, and without fear of victimisation.

2. Background

The [Public Interest Disclosure Act 1998](#) provides protection for workers who raise legitimate concerns about specified matters in the public interest, including within charities. These legitimate concerns (‘qualifying disclosures’) are ones made by an employee who has a reasonable belief that one or more of the following has been, or is likely to be, committed:

- A criminal offence
- 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

A ‘qualifying disclosure’ is protected under the 2013 Act provided the employee:

- Makes the disclosure in good faith,

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- Reasonably believes that the relevant failure relates to the proper administration of charities and funds given, or held, for charitable purposes, and,
- Reasonably believes that the information disclosed, and any allegation contained in it are substantially true.

A member of staff making a disclosure has the right not to be dismissed, subjected to any other detriment, or victimised, because they have made a disclosure.

This policy does not replace, and is not intended to be used, in the case of personal grievances where the *Grievance Policy* applies.

Volunteers may make a disclosure but, as they do not have the same status as an employee, they are not protected in the same way by the law. However, AED will ensure that volunteers are similarly not dismissed, subjected to any other detriment, or victimised, because they have made a disclosure.

The member of staff or volunteer has no responsibility for investigating the matter of concern as it is the charity's responsibility to ensure that a proper investigation takes place.

There is an outline of [whistleblowing for employees](#) on the Government website.

3. Policy

A member of staff or volunteer can report concerns that are happening, took place in the past, or are likely to happen in the future. The issues that may prompt concern are those that could seriously harm:

- The people AED helps
- AED's staff or volunteers
- The services AED provides
- AED's assets
- The reputation of AED

Examples of serious harm include:

- If someone's health or safety is in danger, for example if the charity does not use its safeguarding policy.
- A criminal offence, for example theft, fraud or financial mismanagement.
- If the charity uses its activities as a platform for extremist views or materials.
- Loss of charity funds, for example when the charity loses more than 20% of its income (or more than £25,000).
- If the charity does not meet its legal obligations, for example if someone uses the charity for significant personal advantage.

A report can be made anonymously but an anonymous report can be difficult to investigate.

Section 2 of this policy sets out the protected 'qualifying disclosures'. It states that a disclosure should be made in 'good faith', that any failure relates to the proper administration of the charity

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and that the disclosure is substantially true. A report which after investigation is found to be deliberately false or malicious may lead to disciplinary procedures or even criminal proceedings if the police become involved.

However, AED encourages staff and volunteers to report concerns if they have them, all reports will be treated as confidential. Staff or volunteers reporting concerns should do so responsibly and in turn the charity undertakes to investigate any reported concern and to act if necessary.

4. Procedure

In the first instance staff or volunteers should discuss any concerns with their immediate Manager, or the Chair of the Board of Trustees. As set out in section 2, this policy does not replace, and is not intended to be used, in the case of personal grievances where the Grievance policy applies.

As set out in section 3 of this policy a report can be made anonymously but an anonymous report can be difficult to investigate. All reports, however made, will be treated as confidential.

The relevant Manager or Chair will discuss the concerns raised with the member of staff or volunteer and investigate the details of the concern raised. A formal record will normally be made of the concern raised and any proposed action in response.

Depending on the nature of the concern raised, the Manager or Chair may provide assurance to the member of staff or volunteer. However immediate action may be required in which case it will be for the Chair to decide on the response for example (but not exhaustively) to:

- Escalate a Safeguarding or Health and Safety concern,
- Contact the funder or commissioner of any of the charity's services if affected,
- Contact the police if illegal activity is involved, and/or the charity's Auditors if financial irregularity is involved,
- Contact the Charity Commission if a 'serious incident' report is required.

The Manager will consult with the Chair, or the whole Board, as appropriate. If any significant incidents occur such as those immediately above, the Board of Trustees will receive a formal report and consider any 'lessons learned' at its next regular meeting.

If a member of staff or volunteer has concerns about the Manager, they should contact the Chair directly. The Chair will investigate and decide on necessary action.

If a member of staff or volunteer has serious concerns and is unwilling or unable to raise those concerns within AED, a direct report can be made to the Charity Commission. The following is from the Charity Commission [website](#):

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Email whistleblowing@charitycommission.gov.uk and answer these questions:

1. What is the name of the charity? Include its [registration number](#) if it's registered.
2. What is your name?
3. What is your telephone number? Only include this if you would be happy for us to contact you directly - for example, it is not a work environment.
4. What is your role at the charity? If you no longer work for the charity, please tell us when you left.
5. Are you a charity employee or a volunteer?
6. What is your concern?
7. What impact does it have on the people the charity helps, its assets, services, staff or reputation?
8. Have you followed your charity's complaints procedure or raised it with the charity's trustees? What was the response? If you have not raised it with your charity, please explain why not.
9. Have you contacted other organisations, like the police or HMRC? Include reference numbers, the name of who dealt with it, and their response if you have.
10. Do you give permission to us to reveal your identity to the charity's trustees?
11. If you attach evidence to your email, how is it relevant to your concern?

Staff who need advice about whistleblowing but are unable or unwilling to approach anyone within AED can call the independent lawyers [Protect](#) free and confidential advice line. Citizens Advice may also be able to help.

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