



Whistle-blowing Policy

1. Introduction

1.1. Our commitment

As a charity we always aim to conduct ourselves ethically, and with honesty and integrity. We expect the same high standards from both employees of the charity, and volunteers.

We do, however, recognise that there may be occasions when we do not get this right. In these instances, you may feel that you need to raise your genuine and serious concerns through this whistle-blowing policy.

1.2. Who this policy applies to

This policy applies to all employees, trustees, volunteers or those on work-placement working on behalf of Ayrshire Tigers Powerchair Football Club.

1.3. What is Whistle-blowing?

All charities should have whistle-blowing procedures in place to safeguard their charity and beneficiaries. Whistle-blowing, or public interest disclosure, is where an individual or group reports suspected wrong-doing in an organisation such as a charity. Obvious examples include theft, fraud, abuse, breaches of health & safety and the physical or emotional abuse of children, young people, vulnerable adults or the elderly.

The disclosure should be made 'in good faith'. In other words the disclosure must be made out of real concern about wrongdoing. Knowingly and maliciously making false accusations for ulterior motives is not whistle-blowing. The whistleblower should reasonably believe the information and allegation is substantially true, even if the information later turns out to have been incorrect.

Whistle-blowing is not the same as making a complaint or raising a complaint, where the individual is saying that they have personally been poorly treated. A whistleblower is usually not directly or personally affected by the concern and therefore rarely has a direct personal interest in the outcome of any investigation into their concerns.

1.4. UK Legislation

The Public Interest Disclosure Act (PIDA) came into force in July 1999. It protects paid employees against unfair dismissal or being subjected to any other detriment by the charity (such as denial of promotion, pay rise or training) for making disclosures about wrongdoing.

PIDA does not apply to voluntary workers (charity trustees and charity volunteers). Hence, volunteers are not afforded the same legal protection that is afforded to employees.

The Act encourages paid workers to raise concerns about malpractice in the charity. In order for it to be a 'qualifying disclosure' under the Act, the whistleblower should reasonably believe that there is:



- a criminal offence
- a failure to comply with any legal obligation
- a miscarriage of justice
- a health and safety risk to an individual
- damage to the environment
- or concealment of the above.

Once a disclosure has been made in good faith to a trustee of the charity it will be protected under the Act. This should normally be the first route for employees, rather than having to disclose the concern externally. However it does mean that the matter should be dealt with by the charity, quickly and thoroughly.

If the matter is not dealt with internally, in Scotland whistleblowers can disclose it to The Office of the Scottish Charity Regulator (OSCR).

The disclosure is also protected if it is made to a legal advisor in order to obtain legal advice. The Act also helps ensure that charities respond without trying to cover up, or to victimise or dismiss the whistleblower. If the whistleblower fears they may be victimised, or that a cover-up is likely or there is no appropriate prescribed regulator, or if the matter has already been raised internally or with a prescribed body, wider disclosures can be made and still be protected.

Wider disclosures might be to another professional body, the police, an MP, the media, etc. They should still be reasonable in all circumstances taking into account the seriousness of the matter and likelihood of re-occurrence. Reasonableness would also include consideration of whether the worker first followed any internal whistle-blowing procedure the organisation may have.

PIDA means that if you are dismissed because of whistle-blowing it is automatically considered 'unfair dismissal'. If you decide to pursue the matter further in an employment tribunal in Scotland your claim of unfair dismissal is against your employer and not OSCR.

In the event of a whistleblower being victimised for making the disclosure, they can bring a claim to an employment tribunal for compensation. Dismissals of employees for making a protected disclosure are automatically unfair. Compensation awards will be uncapped and based on the losses suffered.

Any clauses in an agreement between a charity employee and the charity which prevent the employee/worker from making disclosures protected under the Act will be void

1.5. OSCR

Charities trustees are the people who have the general control and management of the administration of a charity. In Scotland they are responsible for complying with the charity trustee duties set out in the Charities and Trustee Investment (Scotland) Act 2005. In most cases charity trustees do this very well, but when something goes wrong, and they have not addressed the situation effectively, it may be necessary for OSCR to intervene. Sometimes this means that we will use our legal powers to carry out inquiries into a charity.

OSCR as the regulator of all Scottish charities can accept disclosures from people who volunteer or carry out paid work for a charity. OSCR ensures that charity trustees comply with their legal duties in controlling and managing the administration of their charities.

OSCR considers it best practice for charities that employ people to have whistle-blowing procedures in place, but paid employees or volunteers can contact OSCR if:

- There are not any whistle-blowing procedures in the workplace.
- If the worker is uncomfortable or not confident about using the procedures in the workplace.





- If the worker has used the procedure, but is concerned about the response they have received or if they have not had a response at all.

1.6. How will OSCR deal with my disclosure?

OSCR will process a disclosure in line with their inquiry policy as follows:

- You will receive an acknowledgement within 15 days of submitting your disclosure.
- OSCR will decide whether the information received falls within PIDA, and if there are any regulatory matters for us to take forward. They will do this within six to eight weeks of the disclosure being submitted.
- OSCR will notify you of the outcome of our assessment.
- If OSCR determine that there are regulatory matters, they will conduct further inquiries.
- OSCR may determine that it is appropriate for another organisation to receive the information. This may include organisations that are listed as Prescribed Persons, but it may not. If OSCR determine this, they will either encourage you to contact the organisation directly yourself, or consider passing the information to the organisation directly. OSCR will try to gain your consent to do this, however, they do retain the discretion to pass this information on if they deem it necessary.
- Once they have completed their inquiries, they will write to you and let you know the outcome in general terms.

1.7. Where do concerns come from?

1. Members of the public, service users and volunteers

A member of the public or someone involved with a charity who has a concern can raise this with OSCR using the online concern form via the OSCR website.

2. Notifiable events

Charity trustees often collectively become aware of a situation or event that means there is a risk to the charity, for example reputational damage or financial harm. Where charity trustees are aware of such a situation and are working to address this, they can notify OSCR through the submission of a notifiable event.

3. Charity employees - whistle-blowing

If a charity employee has a concern about the charity that they work for and they do not feel it is being dealt with appropriately, they can raise this concern with OSCR. This is commonly referred to as 'Whistle-blowing' under the Public Interest Disclosure Act 1998 (PIDA). Whistle-blowing guidance and an online form to submit this kind of concern is available through the OSCR website.



4. Funders

Funders may become aware of a concern, perhaps due to a lack of reporting on use of allocated funds, and advise OSCR of the situation.

1.8. Good Practice

Individuals need to be confident that they can raise matters of concern without suffering any detriment. Not dealing with problems early could have a devastating effect on the charity with costly fines, compensation, higher insurance premiums, damaged reputation, regulatory investigation, lost jobs, and even lost lives. Whistle-blowing can be an early warning system for the charity trustees and an effective policy can provide a clear framework for action for service users (players), volunteers, employees and charity trustees alike.

If an individual voices concerns within the charity rather than being forced to go to an external body, charity trustees can often tackle a problem before it becomes a crisis, thus helping to avoid potentially damaging media coverage, regulatory sanctions and/or costly compensation payments.

Therefore, a whistle-blowing policy can provide a clear framework for constructive problem solving in a reasonable, appropriate and controllable way.

Players, volunteers and the charity employees should not be expected to prove their case should they have a concern about malpractice. Therefore, the charity's policy on - and response to - whistle-blowing should be different from its policy on and response to a complaint.

The main points to consider within a whistle-blowing policy or approach to whistle-blowing at the charity:

- Involve everyone by consulting with them individually, before the introducing of the policy;
- Discuss the types of risk your charity may face with your players/volunteers/employees;
- Be clear about what conduct is unacceptable and about the standards expected of your employees and volunteers;
- Encourage people to share their concerns internally and in confidence – they do not need to have proof or need to investigate the matter themselves;
- Be clear that concerned individuals will be supported and protected from reprisals;
- Explain that a whistle-blower is a witness, not a complainant;
- Deal with wrongdoing seriously;
- Train charity trustees on how to deal with whistle-blowing;
- If players/volunteers/employees feel uncomfortable raising their concern with the Head Coach etc, explain that they should then raise it at a senior level such as to a member of the Board of Trustees;
- Emphasise that victimisation is a disciplinary offence as is knowingly raising malicious untrue allegations;
- Offer confidentiality to anyone who asks for it but be clear that there may be circumstances when their identity might have to be revealed such as when you are ordered by court;
- Report back about the progress and outcome of any enquiry or action taken;
- Be prepared to explain how you have handled the concern;
- Under no circumstances try to suppress evidence of malpractice.



2. Charity Policy

2.1. Overview

Ayrshire Tigers PFC encourages its trustees, players, volunteers and employees to be alert to any wrongdoing and to inform the Trustees of any concerns. Whistle-blowers should raise an issue when they are concerned, rather than wait for proof or investigate the matter themselves.

This policy is written in the context of the Public Interest Disclosure Act 1998. It aims to help prevent trustees, players, volunteers and employees from being victimised, discriminated against or disadvantaged in any way for 'whistle-blowing' and the charity takes very seriously any concerns which you may raise under this legislation.

Unfortunately, PIDA does not apply to voluntary workers (charity trustees and charity volunteers). Hence, volunteers are not afforded the same legal protection that is afforded to employees.

However, Ayrshire Tigers PFC want to promote and encourage an open and honest environment in which concerns can be freely raised. We will therefore, in so far as is possible, aim to treat all individuals making a disclosure in the spirit of the Public Interest Disclosure Act 1998.

Ayrshire Tigers is committed to being open, honest and accountable. It encourages a free and open culture in its dealings between the Trustees and those working for Ayrshire Tigers, both players, employees and volunteers.

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 charity nor should it be used to reconsider any matters which have already been addressed under harassment, complaint, disciplinary or other procedures. Once the "whistle-blowing" procedures are in place, it is reasonable to expect staff to use them rather than air their complaints outside the organisation.

This policy gives some information about whistle-blowing to assist employees in deciding whether any proposed action would be protected under the whistle-blowing legislation and sets out the procedure to follow if employees reasonably believe that they have identified such malpractice.

2.2. What types of concerns?

The policy is intended to deal with serious or sensitive concerns about wrongdoings such as the following:

- a criminal offence.
- a failure to comply with any legal obligation.
- a failure in the protection of children or vulnerable adults.
- a miscarriage of justice.
- a health and safety risk to an individual.
- damage to the environment.
- or concealment of the above.



It is not necessary for individuals who raise the concern to prove the wrongdoing that is alleged to have occurred or is likely to occur.

However, if an individual knowingly or maliciously makes an untrue allegation (e.g.: in order to cause disruption to the charity), Ayrshire Tigers will take appropriate disciplinary action against them. It may constitute gross misconduct.

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

2.3. Non-Whistle-blowing Concerns

This policy is only to be used in the exceptional circumstances as outlined above. There are a number of policies that will be relevant in other circumstances.

This list includes but is not limited to:

- Safeguarding and child protection.
- Equal Opportunities.
- Anti-Discrimination.
- Bullying and Harassment.
- Disciplinary.
- Complaints.

2.4. How to raise a concern

The officer designated to handle whistle-blowing concerns at Ayrshire Tigers PFC is the Club Secretary.

You should raise your whistle-blowing 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:

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

You must say that you are raising your concern using the whistle-blowing 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. Where this is the case, you will be informed of this and the reasons why it was not possible.

We will consider anonymous disclosures, but we do not encourage them as anonymity often makes it difficult to properly investigate concerns, protect employees or give feedback on outcomes.

Players, employees and volunteers should in most cases, first report their concern to the Head Coach, who is expected to respond to that matter. If they cannot deal with the matter, he or she will refer the concern to the Charity Secretary and in turn the secretary will inform the other trustees.

Dependent on the seriousness and sensitivity of the matter, and who is suspected of the wrongdoing, the individual can, if necessary report directly to the Charity Secretary. If the matter concerns the Charity Secretary, it should be raised with the Trustees.



Individuals are encouraged to raise their concerns in writing where possible, setting out the background and history of their concerns (giving names, dates and places where possible) and indicating the reasons for their concerns.

Volunteers, employees, or players may also invite a friend or family member or even a colleague to be present during any meetings or interviews about the concerns they have raised.

If any individual is unsure whether to use this procedure or they want independent advice at any stage, they should contact: the independent charity, Public Concern at Work's legal helpline on 020 7404 6609, email: helpline@pcaw.co.uk.

Public Concern at Work will be able to advise on how and with whom to raise a concern about malpractice.

Disclosures made to a legal advisor in the course of obtaining legal advice will be protected under the Public Interest Disclosure Act.

If the individual reasonably believes that the matter relates wholly or mainly to the conduct of a person or body other than Ayrshire Tiger's or any other matter for which a person or body other than Ayrshire Tiger's has legal responsibility, the disclosure should be made to that other person or body.

2.5. Protecting the individual raising the concern

In order to benefit from the protection of the legislation, the whistle-blower has to satisfy certain conditions.

1. Disclosure to the employer will be protected, provided that it is made in good faith and the whistle-blower has a reasonable suspicion that the alleged malpractice has occurred, is occurring, or is likely to occur.
2. Disclosure to a regulator (eg Health and Safety Executive, Environment Agency, OSCR) will be protected where, in addition, the whistle-blower honestly and reasonably believes that the information and any allegation in it are substantially true.

If an individual raises a concern which they believe to be true, Ayrshire Tiger's will take appropriate action to protect the individual from any harassment, victimisation or bullying. Anyone who raises 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 if the individual requests it and their name or position will be not be revealed without their permission unless the charity has to do so by law. If in other circumstances the concern cannot be resolved without revealing the individual's identity, the Charity Secretary will discuss with the individual whether and how to proceed.

Concerns raised anonymously tend to be far less effective but the Charity Secretary will decide whether or not to consider the matter taking into account:

- the seriousness of the matter;
- whether the concern is believable;
- whether an investigation can be carried out based on the information provided.

2.6. How the charity will 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 Charity Secretary, the Trustees, through the disciplinary process or it may be referred to the police, other agencies such as Social Services.

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



The charity will give the individual feedback on the progress and outcome of any investigation wherever possible.

If the suspicions are not confirmed by an investigation, the matter will be closed. Volunteers or players will not be treated or regarded any differently for raising the concern, and their confidentiality will continue to be protected.

Players/volunteers or employees should inform the Head Coach or a trustee immediately if they become aware that any of the specified actions is happening (or has happened, or is likely to happen).

Complaints against the Chair should be passed to the Charity Secretary who will carry out an investigation.

The complainant has the right to take their complaint direct to the Chair. The Chair has the right to refer the complaint back to the other trustees if he/she feels that they without any conflict of interest can more appropriately investigate the complaint.

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

Whistle-blowers can ask for their concerns to be treated in confidence and this will be respected 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.

Employees will not be penalised for informing management about any of the specified actions and will be protected from reprisals.

The charity encourages you to use the procedure if you are concerned about any wrongdoing at work. If you make an allegation in good faith, which is not confirmed by subsequent investigation, no action will be taken against you. In making a disclosure you should exercise due care to ensure the accuracy of the information. However, if the procedure has not been invoked in good faith (e.g. for malicious reasons or in pursuit of a personal grudge), then it will make you liable to disciplinary action up to and including dismissal as may be appropriate in the circumstances.

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.

2.7. 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 charity officer investigating should ensure that the investigations are undertaken as quickly as possible without affecting the quality and depth of those investigations. They should also 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 charity 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.



2.8. Investigating procedure

The charity officer investigating should follow these steps:

- Full details and clarifications of the complaint should be obtained.
- They should inform the person against whom the complaint is made as soon as is practically possible. They will then be informed of their right to be accompanied by a representative at any future interview.
- The charity officer should consider the involvement of the Police at this stage and should consult with the Chair.
- The allegations should be fully investigated by the charity with the assistance where appropriate, of other individuals / bodies.
- A judgement concerning the complaint and validity of the complaint will be made by the charity official investigating. This judgement will be detailed in a written report containing the findings of the investigation and reasons for the judgement. The report will be passed to the Chair as appropriate.
- The Chair will decide what action to take. If the complaint is shown to be justified, then they will invoke the disciplinary 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 Trustee Board to enable a review of the procedures.

If the complainant is not satisfied that their concern is being properly dealt with by the charity officer investigating, they have the right to raise it in confidence with the Chair.

If the investigation finds the allegations unsubstantiated and all internal procedures have been exhausted, but the complainant is not satisfied with the outcome, the charity recognises the lawful rights of player/volunteers/employees or trustee to make disclosures to an appropriate organisation or body (such as the Health and Safety Executive, or the Police), or, where justified, elsewhere.

If you do not report your concerns to the Head Coach or the Charity Trustees you may take them direct to the appropriate organisation or body.

This policy is to be read in conjunction with the following policies:

- Equal Opportunities
- Conflict of Interest
- Complaints
- Confidentiality

S Niven

Stuart Niven
Chairperson

23.07.2020

