



Whistleblowing Policy

November 2023

1. Whistleblowing

Although the term “whistleblowing” is not defined by law, whistleblowing is generally understood to mean a staff member, volunteer, or Trustee formally reporting suspected wrongdoing or malpractice which harms or creates a risk of harm to others.

A concern or disclosure might be based on a person’s conduct (leader, volunteer, or Trustee) or it may be about systems, procedures, customs, or practices within the Phoenix Performers.

Incidents of wrongdoing or malpractice include, but are not limited to:

- bribery
- fraud
- financial mismanagement
- abuse of vulnerable groups of people
- criminal activity
- miscarriages of justice
- disregard for health and safety risks
- damage to the environment
- breach of legal or professional obligations
- concealment of any of the above

A person can raise a concern or make a disclosure at any time about an incident.

1.1. Legal responsibility

The Public Interest Disclosure Act 1998 (PIDA) aims to promote greater openness in the workplace. By amending the Employment Rights Act 1996, PIDA protects ‘whistleblowers’ from detrimental treatment, such as victimisation or dismissal, for raising concerns about matters they ‘reasonably believe’ to be in the public interest.

Reasonable belief means the person has genuine reason to express concern, regardless of whether their claim is unfounded.

2. Barriers to speaking out about wrongdoing and malpractice

2.1. The two main barriers to leaders and volunteers speaking out are:

- Fear of reprisal as a result of making a disclosure. For example, not being believed and potentially losing their job.
- Belief that no action will be taken if they do make the decision to report a concern or make a disclosure.

2.2. It is essential that anyone who reports a concern or makes a disclosure is:

- protected from any detriment or discrimination.
- confident that if wrongdoing or malpractice is found that the necessary action will be taken to resolve the issue.

3. Protection

The Phoenix Performers seek to foster an open culture, where leaders and volunteers feel safe to speak up and where those who raise concerns are protected.

We will not tolerate the victimisation, intimidation, discrimination, or unfair dismissal of anyone:

- raising a genuine concern
- involved in the subsequent investigation
- acting as a witness.



If it is found that a person has been treated in an unfair way or been subjected to negative treatment as a direct result of their disclosure, we will follow our Disciplinary Policy.

3.1. Whistleblowers receive protection under the PIDA Act.

To guarantee protection under the regulations, a person must meet the following specified criteria so that their disclosure can be considered a 'qualifying disclosure' under the PIDA Act:

- The disclosure must be made to an appropriate person.
- The person making the claim must have reasonable belief that wrongdoing is being or is about to be committed.
- The disclosure must reasonably believe it to be substantially true and that the disclosure is in the public interest.
- The person making the claim should not collect the information to support the allegations improperly.

Protection under the PIDA Act applies to leaders and volunteers who report a concern internally and those who make a disclosure to an external organisation as long as it meets the same satisfying conditions.

4. When to apply this procedure

There can be confusion about what makes whistleblowing different to personal grievances, for example bullying, harassment, discrimination, and complaints.

In the case of whistleblowing, the wrongdoing being disclosed must be in the public interest. The person who is reporting the concern or making the disclosure may not directly or personally be impacted by the wrongdoing or malpractice, they are simply alerting others. For this reason, a person who is whistleblowing is not expected to prove the malpractice because 'reasonable belief' that wrongdoing has taken place is enough to form the basis of a concern or disclosure.

A complaint or a grievance is raised when a person identifies that they have been personally mistreated, bullied or harassed. With a complaint or grievance, the person making the complaint has a personal interest in the outcome and is expected to prove their case.

Whistleblowing procedures should not be used in relation to grievances or complaints. Please see our Complaints Policy and Bullying and Harassment Policy.

5. Deciding who to contact

We encourage leaders and volunteers to raise any concerns they may have about wrongdoing or malpractice as soon as they have been noticed.

In most cases, concerns can be resolved internally by talking to a member of the SLT, however, there are circumstances where this is not appropriate, and a formal disclosure needs to be made to an external organisation.

Please use the flowchart at the end of this document to help you decide who to contact.

If you require further independent information, Protect is an independent charity providing free and confidential legal advice on reporting concerns or making disclosures.



6. Reporting a concern internally

6.1. Stage one: Reporting wrongdoing or malpractice

A concern can be raised a member of the SLT. Please see the flowchart.

6.2. Stage two: Meeting

After a concern is reported, a meeting will be held to discuss the concern with:

- the leader or volunteer raising the concern
- the Appropriate Person receiving the disclosure

The meeting must be held within fourteen days and may take place virtually or in a location that supports the confidentiality of the person reporting. We will acknowledge receipt of a report within five days.

The meeting will be exploratory, and the leader or volunteer can bring along someone to accompany them.

The person reporting the concern will have the opportunity to detail the reasons for their concern and share any supporting facts with the Appropriate Person chairing the meeting. The Appropriate Person will, having taken into account all the information presented, then agree with the individual the likely course of action and agree timescales for action. The Appropriate Person will make a formal note of what is discussed in the meeting and share this with the leader or volunteer.

The identity of the person reporting will be protected throughout this process.

6.3. Stage three: Deciding an appropriate response

Once the meeting has taken place, the Appropriate Person to whom the disclosure was made will consider the information and decide:

- whether an investigation should be conducted
- who will undertake the investigation
- what form it should take.

Unless the concern was reported anonymously, it is the responsibility of the person who was first approached to keep the leader or volunteer who raised the concern informed of the outcome of the investigation and what, if any, action has been taken.

If, following the meeting, the Appropriate Person decides not to proceed with an investigation, this decision will be explained as fully as possible to the person reporting the concern within 48 hours (not including weekends).

The leader or volunteer who reported the concern will, at every stage, be given an opportunity to respond to the findings and decisions taken. If the person reporting feels an investigation is necessary, they can appeal against the decision not to investigate by contacting the SLT.

6.4. During an investigation

Internal investigations into concerns will be carried out and relevant people will be interviewed to gather facts and evidence. This should take place under the strictest confidential conditions with the leader or volunteer's position protected.

We will endeavour to conclude investigations within 28 days, after which the person making the disclosure (if they are named) will be informed of the outcome.



6.5. Complaints about the Whistleblowing process

We hope any leader or volunteer reporting a concern will be satisfied with the speed, conduct and outcome of the investigation. However, if this is not the case, concerns should be put in writing to the SLT.

After a complaint is made, it will be investigated. The person to whom the complaint was reported to is responsible for reporting back to the leader or volunteer with their findings and what, if any, action has been or will be taken. For further details, see our Complaints Policy.

7. Making an external disclosure

It is hoped this procedure will provide leaders and volunteers with the assurance they need to raise whistleblowing concerns internally; however we accept there may be circumstances where leaders and volunteers feel it is more appropriate to make the disclosure to an external organisation. This is known as a 'Public Disclosure'. If a disclosure is made to an external organisation, they will carry out investigations as necessary and according to their own procedures and processes.

If an external investigation finds the Phoenix Performers to be at fault, we will work with the external organisation to proactively address, and where possible mitigate, any issues raised.

8. After an investigation

The Investigator appointed either internally or externally will make a thorough and objective assessment of the concern.

If the concern or disclosure is shown to be correct, actions will be decided to resolve the situation or concern.

If the concern or disclosure is shown to be incorrect then the investigator will decide if the raising of the concern or disclosure was genuine.

8.1. Relevant failure

If, what a person believed was happening turns out to be incorrect, this is known as a 'relevant failure'. However, if the person can show that they held a 'reasonable belief' in the circumstances at the time of disclosure, this will be accepted.

8.2. Malicious disclosures

A person is considered to make an allegation maliciously if:

- It is found they were not acting in the public interest.
- They make an allegation without having reasonable grounds for believing it to be substantially true.
- They collect the information to support the allegations improperly.
- They make an allegation for personal or 3rd party gain.

Where this criterion is met or the leader or volunteer engages in improper conduct in relation to whistleblowing, they are unlikely to be protected under the PIDA Act.

If a leader or volunteer is found to have reported a concern or made a disclosure maliciously, they will be subject to formal disciplinary action according to our Disciplinary Policy. In some cases, the person may be subject to criminal investigation where illegality has occurred.



9. Anonymity and confidentiality

If a leader or volunteer wishes to report a concern or make a disclosure anonymously, these will still be investigated and treated in the same way as named disclosures.

Anonymous claims can be more difficult to investigate as there is no option to seek further information during investigation. In an anonymous claim, the person reporting or disclosing cannot be contacted to discuss the outcome. Making a disclosure anonymously should not act as a barrier if the person feels this is the best course of action for them.

All documentation relating to concerns and disclosures will be kept secure with access given to select people, depending on the concern or disclosure.

