WHISTLEBLOWING POLICY

# **Policy**

The Freeman Heart and Lung Transplant Association (FHLTA) is committed to being open, honest and accountable. It encourages a free and open culture in its dealings between the Trustees, members and those volunteering for the FHLTA.

This policy aims to help the Trustees, members and volunteers to raise any serious concerns they may have about individuals within the FHLTA with confidence and without having to worry about being victimised, discriminated against or disadvantaged in any way as a result.

It is written in the context of the Public Interest Disclosure Act 1998 although this act does not protect volunteers in the same way that it protects employees. This is simply guidance on “blowing the whistle’ on malpractices within an organisation.

## **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.:* to cause disruption within FHLTA), the FHLTA 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.

This policy does not deal with any complaints, such matters should be dealt with accordingly in adherence to the FHLTA’s Complaints Policy and Procure. staff may have about their employment.

FHLTA Bullying and Harassment policy offers protection to workers against harassment, bullying and discrimination.

## **How to raise a concern within the FHLTA**

The officer designated to handle whistleblowing concerns is the adopted Chairperson, currently Adele Lambert and as Chairperson is the FHLTA’s Whistleblowing Officer.

Individuals should in most cases, first report their concern to the Whistleblowing Officer who is expected to respond to that matter. If the relevant person cannot deal with the matter, he or she will refer the concern to the Vice Chairperson, currently Jon Comb.

Dependent on the seriousness and sensitivity of the matter, and who is suspected of the wrongdoing, the individual can, if possible, report directly to the Whistleblowing Officer. If the matter concerns the Whistleblowing Officer, it can be raised with any of the FHLTA 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.

Trustees, members or volunteers of the FHLTA are invited to bring a person of their choosing, for support, to any meeting or interviews held about the concerns raised providing this person is not involved in the process.

If any individual is unsure whether to use this procedure or they want independent advice on how and with whom to raise a concern about malpractice.

they should contact:

* Charity Commission 0300 066 9191 or – Email: whistleblowing@charitycommission.gov.uk
* Citizens Advice helpline on 0800 144 8848

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

## **Protecting the individual raising the concern**

If an individual raises a concern which they believe to be true, FHLTA will take appropriate action to protect the individual from any harassment, victimisation or bullying. Members who raise a genuine concern under this policy will not be at risk of losing their position, nor will it influence any unrelated disciplinary action or 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 FHLTA has a legal obligation to do so. If, in other circumstances, the concern cannot be resolved without revealing the individual’s identity, the Whistleblowing Officer or Trustee dealing with the concern will discuss with the individual whether to and how to proceed.

Concerns raised anonymously tend to be far less effective, but the Whistleblowing Officer will decide whether 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.

## **How FHLTA 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 FHLTA Whistleblowing Officer, the Trustees, through the disciplinary process or it may be referred to the police, other agencies such as Social Services, an external auditor or an independent investigator.

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

FHLTA 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. Individuals will not be treated or regarded any differently for raising the concern, and their confidentiality will continue to be protected.

# **General Guidance**

## **What is Whistleblowing?**

Whistleblowing, or public interest disclosure, is when a person reports a concern about the improper actions or omissions of an individual or body which may cause harm to others or to the organisation. Obvious examples of such improper actions include theft, fraud, abuse, breaches of health & safety.

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 whistleblowing. The “whistle blower” should reasonably believe the information and allegation is substantially true, even if the information later turns out to have been incorrect.

Whistleblowing is not the same as making a complaint or raising a grievance, where the individual is saying that they have personally been poorly treated. A Whistle blower 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.

The Whistle blower raises the concern so that others can address it. Examples of concern may include:

* a volunteer defrauding the FHLTA or anyone using FHLTA;
* the physical or emotional abuse of children, young people, vulnerable adults or the elderly;
* anyone making inappropriate use of FHLTA’s resource (e.g.: for their own personal use and/or gain).
* faulty machinery or equipment that puts the safety of FHLTA, its Trustees, members or volunteers at risk.

## **Good Practice**

For effective risk management, members 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 organisations with costly fines, compensation, higher insurance premiums, damaged reputation, regulatory investigation, loss of role and/or membership and even loss of lives. Whistleblowing can be an early warning system for the FHLTA, and an effective policy can provide a clear framework for action.

Following its public consultation on whistleblowing, the UK Financial Services Authority (FSA) found that:

*A whistleblowing policy will improve the trust and confidence among people by creating what one respondent called a "culture of honesty and openness" by encouraging people to report internally. This was seen as "good for the morale of members", giving them confidence to come forward with concerns. Senior Trustees will be the first to know of any issues that they may need to address. These can be dealt with internally. This also means that the costs of investigating any problems, such as fraud, are reduced as problems can be caught quickly.*

If an individual(s) voice concerns within the FHLTA, rather than being forced to go to an external body, the FHLTA 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. A whistleblowing policy can provide a clear framework for constructive problem solving in a reasonable, appropriate and controllable way.

Members should not be expected to prove their case should they have a concern about malpractice. Therefore, an organisation's policy on - and response to - whistleblowing should be different from its policy on and response to a grievance or complaint.

The main points to consider within a whistleblowing policy or approach to whistleblowing at work:

* Involve Trustees, members and volunteers by consulting with them, through meetings, groups, or – in smaller organisations individually, before the introducing the policy;
* Discuss the types of risk your charity may face with your Trustees;
* Be clear about what conduct is unacceptable and about the standards expected of your trustees, members and volunteers
* Encourage individuals 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 Trustees, members and volunteers will be supported and protected from reprisals;
* Explain that a “Whistle blower” is a witness, not a complainant.
* Deal with wrongdoing seriously and effectively;
* Train trustees on how to deal with whistleblowing;
* If trustees/members/volunteers feel uncomfortable raising their concern with the Whistleblowing Officer, explain that they should then raise it with the Vice Chairperson or another Trustee of the charity
* Emphasise to all Trustees, members and volunteers that victimisation is a disciplinary offence as is knowingly raising malicious untrue allegations;
* Offer confidentiality any Whistle blower 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 to the Whistle blower 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.

## **The Legislation**

The Public Interest Disclosure Act 1998 protects most workers against unfair dismissal or being subjected to any other detriment by their employer (such as denial of promotion, pay rise or training) for making disclosures about wrongdoing. It covers all employees, trainees, agency staff, contractors and homeworkers, regardless of length of service or age**. BE AWARE the genuinely self-employed and volunteers are not covered by the Act.**

**External Bodies and Wider Disclosures**

If the matter is not dealt with internally, whistle blowers can disclose to appropriate external bodies, such as the Charity Commission or legal advisor. The disclosure is protected if it is made to a legal advisor in order to obtain legal advice.

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

However, if the wrongdoing is of an ‘exceptionally serious nature’, (such as involving a murder enquiry) the whistle blower need not fear victimisation or cover up to make a protected disclosure to an external body, although it should still be reasonable particularly with regard to whom the disclosure is made.

If the whistle blower is victimised for making the disclosure, they can make a formal complaint following the appropriate policy and procedure. Dismissals of Trustees, members for making a protected disclosure are automatically unfair.

## **Further Information**

Information on whistleblowing can be accessed through the government websites.
[www.gov.uk/whistleblowing/overview](http://www.gov.uk/whistleblowing/overview)

[www.gov.uk/guidance/report-serious-wrngdoing-at-a-charity-as-a-worker-or-volunteer](http://www.gov.uk/guidance/report-serious-wrngdoing-at-a-charity-as-a-worker-or-volunteer)

# Change Record

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| **Date of Change:** | **Changed By:** | **Comments:** |
| 17/01/2021 | NEW | Policy approved by the Trustees |
| 13/01/2021 | AL | Approved by Chair |
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