

Green Party of England and Wales Member Whistleblowing Procedure 2021

Whistleblowing

"Whistleblowing" is the term used when a member passes information concerning wrongdoing.

To be protected the whistleblower who makes a disclosure must reasonably believe two things:

Firstly, that they are acting in the interests of the Green Party of England and Wales, or the general public interest.

Secondly, that they have a reasonable belief that disclosure tends to show past, present or likely future wrong doing falling into one or more of the following categories:

- Failure to comply with an obligation set out in law;
- A breach of specific legislation such as that coming within the framework of health and safety laws or equalities laws (definition given by Gov: <https://www.gov.uk/whistleblowing>);
- An actual criminal offence such as fraud;
- Miscarriage of justice;
- Covering up wrongdoing;
- Damage to the environment;

The following specifically do not come within the definition of whistleblowing

Personal grievances;

Matters that come within the framework of the Standing Orders relating to discipline where the normal GPEW disciplinary procedure would be more appropriate.

Procedure for Making an Allegation

Whistleblowing allegations should be made to one of the **Prescribed persons** within GPEW.

For members the Prescribed persons are the CEO, the Chair of GPEX and either of the Co-Chairs of GPRC.

GPEW recognises that the choice of person to whom a member makes an allegation may depend on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. For example, if the whistleblower believes that management is involved it would be inappropriate to raise it directly with them. If the whistleblower considers that all named Prescribed persons are involved, then they may make the allegation to one of the GPRC On Call Councillors. The On Call Councillor to whom the allegation has been made, must then communicate with the other two On Call Councillors in order to progress the investigation in line with this policy.

If a Prescribed person receives an allegation they will consider the allegation and may discuss it with any of the other Prescribed persons, unless it concerns that person.

Reporting

The GPEW recognises that the decision to make an allegation can be a difficult one. However, whistleblowers who make serious allegations in the reasonable belief that it is in the public interest to do so have nothing to fear because they are doing their duty either to the GPEW and/or to the General Public.

The GPEW will take appropriate action to protect a whistleblower who makes a serious allegation in the reasonable belief that it is in the public interest to do so, from any reprisals, harassment or victimisation.

Confidentiality

All allegations will be treated in confidence and every effort will be made not to reveal a whistleblower's identity unless the whistleblower otherwise requests. However, if the matter is subsequently dealt with through other GPEW procedures such as SOPD, decisions over confidentiality will then fall under those procedures.

Similarly, if the allegation results in court proceedings then the whistleblower may have to give evidence in open court if the case is to be successful.

The GPEW will not, without the whistleblower's consent, disclose the identity of a whistleblower to anyone other than a person involved in the investigation of the allegation.

It should be understood, however, that an investigation of any malpractice may need to identify the source of the information and a statement by the individual may be required as part of the evidence.

Anonymous Allegations

This procedure encourages whistleblowers to put their name to an allegation wherever possible as anonymous allegations may often be difficult to substantiate/prove. Allegations made anonymously are much less powerful but anonymous allegations will be considered at the discretion of the Prescribed persons.

In exercising discretion to accept an anonymous allegation the factors to be taken into account are:

- The seriousness of the issue raised
- The credibility of the allegation; and
- Whether the allegation can realistically be investigated from factors or sources other than the complainant

Untrue Allegations

No disciplinary or other action will be taken against a whistleblower who makes an allegation in the reasonable belief that it is in the public interest to do so even if the allegation is not substantiated by an investigation. However, disciplinary action may be taken against a purported whistleblower who is found not to have acted in good faith in the public interest or the interests of the party (e.g. making an allegation frivolously, maliciously or for personal gain where there is no element of public interest).

Allegation

Whether a written or oral report is made it is important that relevant information is provided by the whistleblower including:

- The name of the person making the allegation and a contact point (unless it is anonymous).
- The background and history of the allegation (giving relevant dates and names and positions of those who may be in a position to have contributed to the allegation);
- The specific reason for the allegation. Although someone making an allegation will not be expected to prove the truth of any allegations, they will need to provide information to the Prescribed person they have reported to, to establish that there are reasonable grounds for the allegation.

If the initial allegation is made orally, this must be submitted in writing by the whistleblower as soon as possible. Someone making an allegation may be accompanied by another person of their choosing during any meetings or interviews in connection with the allegation. However, if the matter is subsequently dealt with through another procedure the right to be accompanied will at that stage be in accordance with the relevant procedure.

Action on receipt of an Allegation

The Prescribed person will record details of the allegation that has been submitted in writing gathering as much information as possible, (within 5 working days of receipt of the allegation) including:

- The record of the allegation;
- The acknowledgement of the allegation;
- Any documents supplied by the whistleblower

If the Prescribed person makes an assessment based on the initial investigation that the whistleblowing complaint does not require further investigation, they must discuss their findings with the other Prescribed persons (unless they are the subject of the allegation) before further action is taken, which may include dismissal of the allegation. The decision on further action requires the agreement of 3 prescribed persons.

If a further investigation is needed, the Prescribed persons will appoint a team to assist them in the investigation, as appropriate, depending upon the nature and seriousness of the allegation.

The investigators will ask the whistleblower for their preferred means of communication and contact details and use these for all communications with the whistleblower in order to preserve confidentiality.

The investigators will follow the guidelines given below.

If the allegation relates to fraud, potential fraud or other financial irregularity the Treasurer will be informed within 5 working days of receipt of the allegation. The Treasurer will determine whether the allegation should be investigated and the method of investigation.

If the allegation discloses evidence of a criminal offence it will immediately be considered by the Co-Chairs of GPRC together with the on-call GPRC councillors and a decision will be made as to whether to inform the Police.

If the allegation concerns suspected harm to a child or young person, the Safeguarding policy of the Party will be used and the appropriate authorities will be informed immediately.

If the issue is around suspected harm to a vulnerable adult, the Safeguarding Policy will be followed.

Timetable

- An acknowledgement of the allegation in writing within 10 working days with
 - An indication of how the GPEW propose to deal with the matter
 - An estimate of how long it will take to provide a final response
 - An indication of whether any initial enquiries have been made
 - Information on whistleblower support mechanisms
 - Indication whether further investigations will take place and if not, why not

Where the allegation has been made internally and anonymously, clearly the GPEW will be unable to communicate to the whistleblower what action has been taken.

GPEW will not be able to inform whistleblowers of any matters which would infringe the duty of confidentiality owed to others.

GPEW will always strive to handle all matters fairly and properly.

Support

The GPEW will take steps to minimise any difficulties which may be experienced as a result of making an allegation. For instance, if a whistleblower is required to give evidence in criminal or disciplinary proceedings the GPEW will arrange for them to receive advice about the procedure and advise on the support mechanisms that are available.

The GPEW accepts that whistleblowers need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, we will inform those making allegations of the outcome of any investigation.

Responsibility for the Procedure

The CEO and Co-Chairs of GPRC have overall responsibility for the operation of this procedure, for determining the administrative processes to be followed and the format of the records to be kept.

Guidelines for the investigation team

By consultation between the Prescribed persons, arrangements must be made for a comprehensive investigation of the issue.

In circumstances of protected disclosures regarding financial malpractice, one of the Prescribed persons must consult with the Green Party Treasurer and/or Auditor regarding the investigation process, approval of investigation, terms of reference (TOR) and any other relevant legal documentation.

Investigation Team

Investigations may be completed by appropriately experienced independent Green Party staff, or by independent third parties. If any criminal activity such as fraud has financial implications it is recommended that a person with suitable financial skills and experience is a part of the investigation team. An investigation is required to be done without regard to any person's relationship with the Green Party, position or length of service including time in public office or as a public elected official.

In the case of a fraud allegation, the Prescribed persons will not be involved in the investigation directly as they will be the ones to review the investigation report and be involved in the decision on any disciplinary action to be taken. The investigation team should comprise at least two members. If a translator is required, this should be an independent translator.

Safeguards for reporting must be applied in all cases therefore when conducting their investigation, investigators must be alert not to act in a way or reveal documents or other information that will allow others to guess that there is a whistle blower involved or to work out who they might be.

Investigation

The purpose of the investigation is to establish the facts. All work of the investigation team should be documented, including transcripts of interviews conducted. The investigation should be held in a timely manner and the Prescribed persons should be kept informed of any major developments.

The investigating team may discover further or conflicting evidence regarding the allegation during their investigation. For example, they may discover that evidence has been falsified, or that fraudulent activity was more extensive than previously thought. This should be raised with the Prescribed persons, so that they can consider whether to take appropriate action such as to widen the remit of the investigation or take disciplinary action against the complainant.

A confidentiality clause must form part of any investigatory interview notes sign-off statement. Breaches of confidentiality may result in disciplinary action for employees or active volunteers of the Green Party. To maintain confidentiality, disclosure of details of the allegation being investigated should be appropriate to the situation and to the person being interviewed, whilst not misleading the witness in any way.

Where external expert advice is required, for example the opinion of a lawyer, this advice should be summarised in an appendix to the investigation report.

Investigation Report

The conclusion of all whistleblowing investigations must be documented. The Investigation Report will contain all details relating to the investigation and a timeline of all the events which took place. The Report will also include the transcripts of any interviews undertaken and any legal advice received as an Appendix. The report may also contain the recommendations of the investigation team on the course of action to be taken.

The Investigation Report will be sent to all the Prescribed persons (unless they are the subject of the allegation) who will agree the appropriate action to be taken.

The person(s) who initially reported the suspicions should be informed of the outcome of the investigation, but this should be done only once the report and proposed course of action has been finalised.

Actions arising from whistleblowing investigations

Disciplinary procedures

Any party member who, in the course of their volunteering or work for the party, is judged guilty of fraud, criminal negligence or any ongoing criminal activity which poses a danger to the wider public, has violated the party Code of Conduct and would therefore be expelled automatically (but may retain the right to appeal) according to the GPEW disciplinary processes.

In addition, where appropriate, the Green Party will refer significant fraud, criminal negligence or any ongoing criminal activity which poses a danger to the wider public, to the local law enforcement agencies with a view to initiating criminal prosecution. Consideration should be given to the local context and the consequences in terms of human rights of initiating criminal prosecution against the individuals involved. In every case, the final decision whether or not to prosecute should be taken by the CEO with the agreement of the Co-chairs of GPRC.

Changes to systems of controls

Any whistleblowing investigation is likely to highlight where there has been a failure of supervision and / or a breakdown or absence of control. The course of action required to improve systems should be documented in the investigation report and implemented when this report is finalised.

Recovery of losses

Where the Green Party has suffered loss, full restitution will be sought of any benefit or advantage obtained and the recovery of costs will be sought from individual(s) or organisations responsible for the loss.

If the individual or organisation cannot or will not make good the loss, consideration will be given to taking civil legal action to recover losses. This is in addition to any criminal proceedings which may result.

Donor and regulatory reporting

The Green Party complies with requirements in relation to fraud reporting when it comes to donations. All investigators should make themselves aware of the requirements of the law of England and Wales in relation to donations to political parties.

In cases of fraud or suspected fraud, details of the case should be reported to the relevant people as set out above, including the Green Party's Auditor. The Auditor will prepare the required reporting for the relevant regulatory body. This may include a suspected fraud notification report prior to the investigation commencing and/or a fraud investigation conclusions report. These reports will be submitted to the regulatory body by the relevant person.

Application to Suppliers, Contractors and Consultants

Contracts with these third parties should make explicit reference to the existence of this policy and should require suppliers, contractors and consultants to report any frauds that arise in their dealings with the Party or that in any way involve our resources. All contracts with partners and consultants should either include a copy of this policy as an attachment or clearly specify where a copy can be obtained.

Monitoring

A register will be kept by the CEO/Complaint's Manager of all member whistleblowing allegations which will record the following details:

- The name and status (e.g. elected member) of the whistleblower
- The date on which the allegation was received
- The nature of the allegation
- Details of the person who received the allegation
- Whether the allegation is to be investigated and, if yes, by whom
- The outcome of the investigation
- Any other relevant details

The Register will be confidential and only available for inspection by GPRC.

The CEO in collaboration with the Co-Chairs of GPRC will report to each GPRC meeting on the operation of the procedure and on the whistleblowing allegations made since the previous GPRC meeting. The report will be in a form which does not identify whistleblowers.

Reporting externally

The main purpose of the Whistleblowing policy and procedure is to give members the opportunity and protection they need to raise concerns internally. GPEW would expect that, in almost all cases, raising concerns internally would be the most appropriate action for members to take.

If it may be in the public interest and members reasonably believe the information and allegations are substantially true, they can consider raising the matter with the appropriate regulator (for example FSA, Ofsted etc), where relevant.

Effective Date

The Whistleblowing Procedure will come into effect immediately upon approval by the Green Party Regional Council and the Green Party Executive. Any persons set to be part of the approval process who are currently subject to a whistleblowing complaint or having made one themselves should declare their interest or be recused. The Whistleblowing policy and procedure cannot be used retrospectively for Whistleblowing complaints made prior to the effective date of this document.

Review of this Policy

In the interests of maintaining best practice, the contents of this Whistleblowing document will be reviewed by the Green Party Council every year from the current date of review which is xxxx. In the interim, the CEO and Green Party ruling bodies are authorised to make adjustments as may be required by changes to statutory obligations - however any other significant revision will need approval by the Green Party Regional Council or any new Council that acts in place of GPRC.