



BRATHAY TRUST

WHISTLE BLOWING POLICY & PROCEDURES



DOCUMENT MANAGEMENT RECORD

WHISTLE BLOWING POLICY & PROCEDURES

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WHISTLE BLOWING POLICY

Introduction

At Brathay we strive to demonstrate the organisation's values of Inspire, Share, Support, and Achieve at all times. Our people and culture statement states: 'We strive to create a working environment that is vibrant, innovative and results focused where people feel valued and supported'.

We are therefore committed to maintaining an open culture with the highest standards of honesty and accountability, where workers feel safe to raise any legitimate concerns in confidence and in the knowledge that they will not face any detriment as a result of speaking up.

Brathay takes all malpractice very seriously and this document sets out the policy and procedures by which workers can report any concerns.

Aims:

- To encourage workers to feel confident in raising any serious concern they may have about Brathay, its services and the conduct of its staff, contractors or service providers
- To provide methods for workers to raise those concerns and receive feedback on any action taken
- To ensure that workers receive a response to their concerns and that they are aware of how to pursue them if they are not satisfied
- To reassure workers that they will be protected from possible reprisals or victimisation (from their line manager or other colleagues) if they reasonably believe that they have made any disclosure in the public interest.

'Whistle blowing' is the term used to describe a worker making a disclosure *in the public interest* about a colleague's conduct in the course of employment, or about the employer's practices, which fall into one or more of the following categories of 'protected disclosures':

- a criminal offence, eg fraud
- someone's health and safety is in danger
- risk or actual damage to the environment
- a miscarriage of justice
- the company is breaking the law, eg doesn't have the right insurance
- you believe someone is covering up wrongdoing

Whistle blowing legislation was introduced to protect workers from dismissal or victimisation in the event that they disclose some sort of wrongdoing that is in the public interest to the employer or another appropriate body.

'Worker' in this context includes not only those who are directly employed by Brathay, but also individuals such as associates, sessional workers, temporary or agency staff, volunteers etc. Anyone who works for Brathay under any type of contract falls within the scope of the protection.

If employees have concerns about internal practice (including breaches of their employment contract) that are not in the public interest, these must be raised via Brathay's grievance policy and procedures.

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Policy Statement

Brathay's policy is to operate within the Country's laws and regulations, and all workers are expected to co-operate in this by adhering to all laws, regulations, policies and procedures. Under the whistle blowing legislation, Brathay offers protection to any worker who honestly and reasonably believes that underhand or illegal practices are taking place. Brathay undertakes to comply with all applicable laws relating to the prohibition of retaliation against whistle blowers, where the disclosure meets the following conditions:

- The worker making the disclosure must reasonably believe that the information disclosed is in the public interest
- The worker making the disclosure must reasonably believe that the information disclosed is substantially true
- The worker making the disclosure must not have done so for personal gain.

Assuming the requirements of this policy have been met, Brathay undertakes to protect the worker from any victimisation, harassment or bullying resulting from a disclosure being made. Brathay also undertakes not to initiate any disciplinary action against the discloser. Our aim is that the employment of any worker should not in any way be harmed or hindered as a result of making a disclosure, as long as it meets the conditions outline above. Where an individual who was originally involved in the malpractice decides to 'come clean' they cannot necessarily be guaranteed immunity from investigation.

Workers are encouraged to put their name to their allegation whenever possible. Concerns which are expressed anonymously are much less powerful, but will be considered at the discretion of the Chief Executive.

Any reprisal or similar action taken against an individual making a disclosure under this policy may be regarded as gross misconduct and may result in disciplinary action. Failure to notify Brathay when reasonably aware or certain of an occurrence included in the list of protected disclosures would be regarded as misconduct. Failure to notify internally before notifying externally without good cause would also be regarded as misconduct.

Brathay will keep the identity of the discloser confidential as far as possible. However, in certain circumstances, such as a criminal investigation, the worker may be needed as a witness. If this happens, the Chief Executive will inform the worker at the earliest opportunity.

Any matter raised will be dealt with promptly and thoroughly investigated by the appropriate person. There will be an initial response within 5 days of receipt of the allegation.

Any deliberate false or malicious allegations will be taken very seriously and appropriate disciplinary action will be taken against the worker making the disclosure. Where a worker acts in a malicious way (for example by leaking information to the press), the protection outlined above will not apply and the worker will be subject to disciplinary action which could result in summary dismissal for gross misconduct.

Where the nature of the disclosure is not included in the list of protected disclosures, it should be made by way of Brathay's grievance procedure and not under this whistle blowing policy.

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Procedures

When disclosing any concerns, a worker will not be expected to have absolute proof of malpractice, but will need to be able to show clear reasons for his or her concern.

In the event that a worker has reason to believe that underhand or illegal practices are taking place, the worker is encouraged to make his or her disclosure immediately to his or her own manager, who should report it to the Chief Executive. Alternatively, the worker can report it to a member of the Senior Management Team (SMT), particularly if the worker's line manager is implicated in the disclosure.

Where the disclosure concerns the health, safety, and welfare of those on our premises (whether workers, contractors or visitors), the worker is expressly required to immediately use our health and safety reporting procedure so that the hazard (actual or potential) or dangerous occurrence can be dealt with as a matter of urgency. This must be done before making any other report to an outside body.

If the Chief Executive is implicated in the allegation, a member of the Senior Management Team should be approached in the first instance.

The investigating officer, usually a member of the SMT, will investigate the alleged offence in conjunction with the Finance Director with the assistance of other individuals / bodies, including the police, Brathay's auditors, Charity Commissioners, as appropriate.

The investigating officer will inform the member of staff against whom the complaint is made as soon as is practically possible. The member of staff will be informed that the investigations will be held under Brathay's disciplinary procedures.

The complainant will be kept informed of the progress of the investigations and, if appropriate, of the final outcome.

If the alleged offence is substantiated, appropriate action will be taken. The discloser will be informed of the outcome where reasonably practicable, and the appropriate authorities, such as Brathay's auditors will be informed. The Charity Commissioners will always be informed of any serious incident that has resulted, or could result, in a significant loss of funds or a significant risk to Brathay's property, work, beneficiaries or reputation. If the discloser is unhappy about the outcome of an investigation, he or she should make a further report to the Chair of Trustees, and if there is a good reason to do so, the concern will be investigated again.

If a worker has a concern and is unsure whether this is the appropriate procedure for raising it, or is unhappy about the final outcome of an investigation, s/he can contact the independent charity Public Concern at Work (0207 404 6609 <http://www.pcaaw.co.uk/>) for independent advice.

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Law relating to this policy

This code has been written with regard to the Public Interest Disclosure Act, 1998, as amended on 25 June 2013. The Act protects employees who make disclosures about the following matters of concern in accordance with the Act's provision.

- a criminal offence;
- a breach of a legal obligation;
- a miscarriage of justice;
- a danger to the health and safety of an individual;
- damage to the environment; or
- the deliberate covering up of any matter which relates to any of the above issues.

The Act is incorporated into the Employment Rights Act, 1996, which protects employees who take action over, or raise concerns about, health and safety at work. Further information can be found here <https://www.gov.uk/whistleblowing>

Responsibilities

Trustees	<ul style="list-style-type: none">• Overall responsibility for a policy which ensures compliance with the relevant statute
Chief Executive	<ul style="list-style-type: none">• Development and maintenance of such procedures as are necessary to ensure implementation of the policy.• Reporting to the Trustees
Senior Management Team	<ul style="list-style-type: none">• Ensuring that staff are aware of the policy• Monitoring day to day operations to ensure compliance with business procedures• Ensuring that staff are aware of the procedures for reporting
Individual Responsibility (Workers and Contractors)	<ul style="list-style-type: none">• Compliance with procedures• Referring any concerns to their manager or other appropriate person

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Appendix 1

Other related policies include:

- Anti-Bribery Policy
- Hospitality and Gifts Policy
- Grievance Policy
- Disciplinary Policy