



## Whistleblowing Policy

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The policy sets out the procedure of the British Shuai Jiao Union (BSJU) for dealing with whistleblowing. This document is a policy document that can be used by any BSJU member.

Whistleblowing is the term used to describe the situation when a member shares information about wrongdoing or malpractice. Whistleblowing relates to a situation where the wrongdoing affects other people. A member of staff will be protected under whistleblowing laws where they make a disclosure which they believe is in the public interest which could show past, present, or likely future wrongdoing amounting to any of the following:

- criminal offences
- failure to comply with a legal obligation
- a miscarriage of justice
- endangering a person's health and safety
- damage to the environment
- covering up or concealing any wrongdoing that falls in the above categories.

The law provides members with legal protection in relation to whistleblowing, provided that this is done in the correct manner. The legal protection ensures that members are not subjected to detriment or victimisation for whistleblowing. The whistleblowing protection applies to a wide range of different types of member and staff.

Personal grievances are not covered by whistleblowing laws. Personal grievances might include things such as bullying, harassment, and discrimination. The BSJU hold a separate policy to deal with personal grievances.

The policy will therefore refer to other relevant policies belonging to the organisation such as:

- the grievance policy
- the disciplinary policy
- the data protection/privacy policy

The policy is not a contractual document and does not need to be signed by a representative of the BSJU but has been approved by the Executive Board.

If you do not qualify as a whistleblower you may still wish to raise a concern about wrongdoing, risk or malpractice.

We encourage you to contact the BSJU, if you wish to raise a concern (called 'making a disclosure') about the activities of associations, schools, members or members of staff.

We take all reports of malpractice seriously, and anyone who reports malpractice to us will be told whether we are able to investigate their concerns or not.

Although whistleblowers are not required to provide evidence, they should be able to explain their concern, why they are making the disclosure and any relevant background information that they have.

Following an initial disclosure, the BSJU will investigate the disclosure fully. The BSJU will set out action depending on the seriousness of the wrongdoing.

### **Timing**

We will confirm receipt of your report within 3 working days, if you provided contact details contact you within another 10 working days to let you know if we can investigate your report or not.

### **Feedback**

The BSJU will provide feedback but that details of the outcome may be confidential and so may not be included. For example, if the wrongdoer is facing disciplinary action, then the details would not be publicised.

If we can look into your concern, we will investigate your report if it relates to an member association, school or individual and keep you informed, in general terms, of any investigation outcome - however we may not be able to do this if there are legal or confidentiality issues

We may:

- contact you for further information if needed
- share your details with the awarding organisation investigating the report
- share your information with other organisations, such as LADOs or enforcement agencies and the police if we think it is necessary
- suggest another course of action if we consider that we are unable to look at your concerns.

### **Raising a Concern**

Although the act of whistleblowing is not, in itself, illegal, there are limited circumstances in which making a disclosure of certain information can be classed as the commission of an offence.

The classic example is where a member or staff member leaks official information in contravention of the confidentiality of the information, whereby that individual may still be prosecuted regardless of the public merit of the information revealed or whether any damage to the BSJU's interests was actually caused.

Further, under the ERA 1996, where any person making a disclosure commits an offence in so doing, this will not be treated as a qualifying disclosure, thereby not affording the worker any legal protection as a whistleblower.

### **Handling Whistleblowing**

Where a member has concerns as to possible malpractice within the BSJU that has either happened in the past, is happening now or they believe will happen in the near future, it is open to them to report the matter at any time.

Typically, the individual would be well advised to follow any procedures set down by the BSJU. These will often be found in the individual's membership agreement or within the text of the BSJU's grievance procedure.

In many cases, whistleblowing will involve the member reporting their concerns directly to the BSJU in the first instance. However, in some cases, the individual may feel unable to use the BSJU disclosure procedure and will look to reporting the matter to a prescribed or other person or body, such as Sport England.

Once a complaint has been made, the BSJU or prescribed person will decide what action to take and/or whether further inquiries need to be made.

Although the whistleblower will not have a say in how the wrongdoing is dealt with, they may be kept informed of what progress is being made, albeit subject to the person or body dealing with the matter protecting the confidentiality and data protection of others.

In circumstances where a whistleblower is not satisfied with how their concerns have been dealt with, for example, where they do not feel the matter has been taken seriously and/or the wrongdoing is continuing, they may decide to report the matter to someone else, including a prescribed person or body. That said, to remain protected, this must still be done in the right way to the right person.

### **Relevant Law**

The Employment Rights Act 1996 (as amended by the Public Interest Disclosure Act 1998 and the Enterprise and Regulatory Reform Act 2016) is the relevant piece of law that protects workers in relation to whistleblowing.

The government has published whistleblowing guidance for employers and a code of practice. The guidance provides useful information and states that it is best practice for an employer to have a written whistleblowing policy or written procedures in place.

Under the ERA 1996, the individual who makes a qualifying disclosure must also reasonably believe that they are acting in the public interest in so doing.

That said, the whistleblower need not be correct about their concerns, provided they have reasonable grounds for believing that the information disclosed, and any allegation contained in it, are substantially true.

Protection against detrimental treatment is given to whistleblowers under the Public Interest Disclosure Act 1998 (PIDA). As a result, if a whistleblower is victimised, unfairly treated, or dismissed as a result of their disclosure, they are entitled to bring a claim in the employment tribunal. Dismissal in these circumstances may be deemed automatically unfair and there is no cap on the compensation amount awarded to the individual. (That said, employment tribunals do have the power to reduce any compensation award by up to 25% if the disclosure was considered to have been made in bad faith.)

### **Prescribed Persons**

The individual member may contact a third party “prescribed person”, their legal advisor or their MP. A list of BSJU prescribed persons is below:

- The CEO
- The COO
- The Secretary

Disclosure to a non-prescribed person, including the media, is likely to result in the loss of the protections afforded to whistleblowers.

### **Help from a Solicitor**

You can choose to consult a solicitor if you need help.