

## **Whistleblowing Policy**

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## **1 Introduction**

- 1.1 The Ombudsman and his staff must act with the highest possible standards of openness, probity and accountability when conducting the Ombudsman's business. The Ombudsman is committed to these principles and encourages members of staff who have serious concerns about any aspect of the Ombudsman's work to come forward and voice those concerns.
- 1.2 Members of staff could well be the first to realise that something seriously wrong may be happening within PSOW. However, staff might feel that they may not express their concerns because either they feel that speaking up would be disloyal to colleagues or to the Ombudsman, or because they fear harassment or victimisation.
- 1.3 It might seem to be easier to ignore the concern than to report a genuinely held suspicion of malpractice or wrongdoing. This policy makes clear that members of staff are encouraged to report their genuine concerns as soon as possible (and if necessary on a confidential basis). The policy seeks to provide reassurance that they can do so without fear of reprisals, that the Ombudsman will appreciate such disclosure and that he recognises that, in doing so, staff are doing the "right thing".
- 1.4 This policy recognises that it is often a difficult decision for staff to make a disclosure and that they may therefore wish to be supported by a Trade Union representative. The Ombudsman fully endorses the role which Trade Unions and their officers may play in assisting their members to raise a whistleblowing concern.
- 1.5 Any member of staff with a concern is encouraged to seek advice and / or support at any stage of the process. This could be from a Trade Union representative, Public Concern at Work or any person named in section 10 of this policy. In addition ACAS guidance (available on the ACAS website) may also be useful.

## **2 Aims and Scope of this policy**

- 2.1 This policy aims to:
  - i. provide a means for members of staff to raise concerns and to receive feedback on any action taken;
  - ii. allow staff to take their concerns further if they are dissatisfied with the Ombudsman's response; and

- iii. reassure staff that they should be able to raise genuine concerns without fear of reprisals, even if they turn out to be mistaken.
- 2.2 This policy applies to all individuals working at all levels of PSOW, including all staff and contractors, whether employed directly or indirectly. All references in this policy to a member of staff should be read as referring also to a contractor or to an individual working for a contractor.
- 2.3 This policy does not form part of any contract of employment and it may be amended at any time. PSOW may also vary this procedure, including any time limits, as appropriate in any case. Substantial changes to this policy will be made only following consultation with the Staff Representative Council.

### **3 What is Whistleblowing?**

- 3.1 Whistleblowing is the disclosure of information which relates to suspected wrongdoing or danger at work that has occurred or is likely to occur. This may include:
- a criminal offence;
  - failure to comply with a legal obligation;
  - a miscarriage of justice;
  - danger to health or safety;
  - damage to the environment; and/or
  - unauthorised disclosure of confidential information;
  - bribery;
  - financial fraud or mismanagement;
  - negligence;
  - breach of PSOW internal policies and procedures including the [Staff Standards of Conduct](#)
  - conduct likely to damage PSOW's reputation;
  - information tending to show any matter above has been, is being or is likely to be deliberately concealed.
- 3.2 A whistleblower is a person who raises a genuine concern relating to any of the above. If any member of staff has any genuine concerns related to suspected wrongdoing or danger affecting any of PSOW's activities (a whistleblowing concern) they should report it under this policy.

- 3.3 This policy should not be used by staff to lodge complaints relating to their own personal circumstances and employment. In those cases staff should use the Grievance Procedure as appropriate.
- 3.4 If a member of staff is uncertain whether something is within the scope of this policy they should seek advice from a Trade Union representative, Public Concern at Work (see section 10.), their Line Manager, the Chief Operating Officer/Director of Investigations (COO/DOI), or Assistant Director & Legal Adviser (ADLA), as appropriate.

## **4 Safeguards and Assurances**

- 4.1 PSOW recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those who are the subject of the allegation of malpractice or wrongdoing.
- 4.2 PSOW will not tolerate harassment or victimisation and will take action to protect staff when they raise a genuine concern. PSOW will regard any harassment or victimisation as a serious disciplinary offence to be dealt with under the Disciplinary Policy. Any instances of harassment or victimisation after a whistleblowing concern has been raised should be referred immediately to the Support Officer (if one has been appointed), the line manager, Chief Operating Officer & Director of Investigations or the Assistant Director of Investigations & Legal Adviser.
- 4.3 All whistleblowing concerns will be considered carefully. However if the member of staff raising the concern is the subject of disciplinary or redundancy procedures, those procedures will not be halted as a result of the whistleblowing concern.

### **Confidentiality**

- 4.4 PSOW will do its best to protect the identity of the person who has raised the concern, if they do not want their name to be disclosed. However, it is possible that the investigation process may suggest or reveal the source of the information. If the investigation will be significantly hampered by not revealing the source of the concern, this will be discussed by the investigating officer with the staff member. Where confidentiality is requested PSOW will not disclose the whistleblower's identity unless required to do so by law.

## **Anonymity**

- 4.5 A member of staff raising a concern is encouraged to put their name to the allegation. Concerns expressed anonymously are much less powerful and are harder to investigate. It is, of course, also not possible to provide feedback where concerns are raised anonymously. However anonymous concerns will be investigated as thoroughly as is possible. Whilst it is preferable that the person raising the concern does so openly, anonymous reporting is preferable to whistleblowing concerns not being raised at all.
- 4.6 If staff raise genuine concerns, even if they turn out to be mistaken, no action will be taken against them. If, however, we conclude that false allegations have been made maliciously or vexatiously or with a view to personal gain, disciplinary action may be taken against the member of staff concerned.

## **5 How staff can raise a concern and when should they do so**

- 5.1 As a first step concerns should generally be raised with the Line Manager.
- 5.2 However, depending on the seriousness and sensitivity of the issues involved and/or who is thought to be involved in the alleged malpractice the concern may be raised directly with the COO/DOI, or if that is not possible the ADLA or Financial Accountant (FA) . If this is not possible, then the matter should be raised directly with the Ombudsman. For serious matters where it is not considered appropriate to raise the matter with any of these people, the concern may be raised with the Chair of the Audit and Risk Assurance Committee (see Contacts in section 10 below)
- 5.3 Concerns are better raised in writing. Members of staff are encouraged to set out the background and history of their concern, giving as much detail as possible including why they are particularly concerned about the matter. If the member of staff does not feel able to put their concern in writing then they should meet the appropriate Line Manager or other person detailed in paragraph 5.2 above to outline their concerns.
- 5.4 The earlier concerns are raised, the easier it is to take action. Staff are encouraged to raise any concerns at the earliest opportunity and to give as much detail as possible to enable the concern to be investigated. Staff are not expected to be able to prove their concern and disclosure should not be delayed to enable proof to be obtained.

- 5.5 Members of staff may ask a Trade Union representative or work colleague to raise a matter on their behalf and/or to accompany them during any part of the process.
- 5.6 Concerns should generally be raised internally, but section 8 of this policy sets out the approach for external disclosures.

## **6 What will happen next?**

- 6.1 A meeting will be arranged as soon as possible to discuss the concern. The member of staff may bring a colleague or Trade Union representative to any meetings under this policy. Companions must respect the confidentiality of the disclosure and any subsequent investigation. A written summary of the concern will be taken down and a copy will be provided after the meeting. An indication will be given of how PSOW propose to deal with the matter.
- 6.2 The person made aware of the whistleblowing concern will undertake a preliminary investigation to establish whether or not a further and formal internal enquiry should be instigated or whether the matter should be reported to an external agency such as the Police or Wales Audit Office. The result of the preliminary enquiry, which should be completed within 5 working days, will be reported to the COO/DOI (or ADLA or Financial Accountant) who will consult the Ombudsman before any further action is taken. If urgent action is required to address the concern this may be taken before a full investigation is conducted. Should the preliminary investigations take longer than five working days the COO/DOI (or ADLA or Financial Accountant or Ombudsman) will be informed.
- 6.3 Some concerns may be resolved by action agreed between the member of staff and the person made aware of the whistleblowing concern, without the need for investigation. It may be that an investigation can be completed without the person or persons under investigation being aware of the process.
- 6.4 In any event the COO/DOI (or ADLA or Financial Accountant or Ombudsman) will, within 10 working days of the whistleblowing concern being raised, write to the member of staff at their home address:
- acknowledging that the concern has been received;
  - indicating how it is proposed to deal with the matter;
  - giving an estimate of how long it will take to provide a final response;

- telling staff whether any initial enquiries have been made;
- telling staff whether further investigations will take place, and if not, why not
- indicating who will be investigating the whistleblowing concern (the whistleblowing investigating officer) if an investigation is to be carried out;
- proposing to designate an independent member of staff to provide support (the Support Officer) to the member of staff who raised the concern, during any investigation;
- asking the member of staff to respond immediately if they do not wish to have a designated Support Officer (for example if they wish to avoid this very limited loss of confidentiality)..

6.5 Unless the member of staff declines this, a Support Officer will be named and he / she will make contact with the member of staff as soon as possible. The Support Officer will:

- explain his/her role;
- deal with all confidentiality issues;
- agree frequency of contact and keep the member of staff informed of the progress of the investigation; and
- inform the investigating officer of any further issues the member of staff considers necessary.

(If the member of staff does not wish to be supported by a Support Officer that wish will, of course, be respected and the investigating officer will liaise directly with the member of staff.)

6.6 The member of staff should raise with the Support Officer any concerns they may have about the conduct of the investigation. The Support Officer will support the member of staff in the office and at any criminal or disciplinary proceedings which may result from the concern and at which the member of staff is asked to give evidence.

6.7 PSOW will aim to keep the member of staff informed of the progress of the investigation and its likely timescale. However, sometimes the need for confidentiality may prevent PSOW giving specific details of the investigation or any disciplinary action taken as a result. The member of staff and the Support Officer should treat any information about the investigation as confidential.

6.8 If the member of staff wishes correspondence to be sent to their representative (who may be the Support Officer or Trade Union representative) they should inform the COO/DOI (or ADLA or Financial

Accountant or Ombudsman).

- 6.9 The amount of contact between the whistleblowing investigating officer and the member of staff (or representative) will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information will be sought from the member of staff. If the whistleblowing investigating officer arranges a meeting with the member of staff, he / she will have the right to be accompanied by a Trade Union representative (who may or may not be associated with PSOW) or a work colleague.
- 6.10 It is important that the member of staff is assured that the concerns have been treated seriously and properly addressed. At the conclusion of the investigation, subject to legal constraints, the COO/DOI (or ADLA or Financial Accountant or Ombudsman) will provide the member of staff with information about the outcome of any investigations and or proceedings.

## **7 How can the matter be taken further?**

- 7.1 PSOW hopes that the member of staff will be satisfied with the response from the internal procedure. While PSOW cannot always guarantee the outcome the member of staff was seeking, PSOW will try to deal with the concern fairly and in an appropriate way. This policy is intended to assist staff and PSOW to achieve this.
- 7.2 If the member of staff is not happy with the way in which their concern has been handled, they can raise it with one of the other key PSOW contacts in section 5. Alternatively they may contact the Auditor General for Wales or others identified in section 10.

## **8 External Disclosures**

- 8.1 The aim of this policy is to provide a mechanism for reporting, investigating and remedying any wrongdoing in the workplace. PSOW aims to address whistleblowing concerns internally, so that members of staff do not consider it necessary to alert anyone externally.
- 8.2 The law recognises that in some circumstances it may be appropriate for staff to report concerns to an external body such as a regulator. Legislation sets out a list of 'prescribed persons' to whom external disclosures can be made. PSOW strongly encourage staff to seek advice before reporting a concern to anyone external. The independent whistleblowing charity, Public Concern at Work, operates a confidential

helpline. Their contact details are at the end of this policy. It will very rarely, if ever, be appropriate to alert the media.

8.3 Whistleblowing concerns usually relate to the conduct of PSOW staff, but they may sometimes relate to the actions of a third party. In some circumstances the law will protect staff if they raise the matter with the third party directly. However, PSOW encourages staff to report such concerns internally first, or to seek advice from Public Concern at Work. Staff should contact their Line Manager or one of the other individuals set out in section 10 for guidance.

## 9 Responsibility and Monitoring

9.1 The COO/DOI is responsible for monitoring and reviewing this policy. He will maintain a record of disclosures made under this policy and will report to the Audit & Risk Assurance Committee, in an anonymised format, details of any disclosures made under the policy and the outcome of investigations.

9.2 This policy will be reviewed every two years.

## 10 Contacts

Details of the following contacts can be found on the [PSOW intranet](#)

Chief Operating Officer/Director of Investigations

Assistant Director & Legal Adviser

Financial Accountant

Ombudsman

Chair of Audit & Risk Assurance Committee

Auditor General for Wales

The Ombudsman's external auditors

ACAS

Website: [www.acas.org.uk](http://www.acas.org.uk)

Public Concern at Work

Helpline: (020) 7404 6609

(Independent whistleblowing charity)

E-mail: [whistle@pcaw.co.uk](mailto:whistle@pcaw.co.uk)

Website: [www.pcaw.co.uk](http://www.pcaw.co.uk)

UK Government

Website: [www.gov.uk/whistleblowing](http://www.gov.uk/whistleblowing)

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