

**WELSH GOVERNMENT**  
**PEOPLE POLICIES AND PROCEDURES**

**Whistleblowing and Civil Service Code Policy and Procedure**

This policy applies to employees (including contractors and agents) of the Welsh Government and sets out how issues of whistleblowing and breaches of the Civil Service Code will be handled, investigated and the actions that may be expected as a result.

**Allegations of misuse of Welsh Government funds by an external individual/organisation will be considered by the External Assurance Panel. For further details on how to report these allegations please see the Dealing with Complaints pages on the intranet.**

**CONTENTS**

**Message from the Permanent Secretary**

- 1. What you need to know**
- 2. Our policy**
- 3. The procedure**

**Annexes**

|         |                                                                                       |
|---------|---------------------------------------------------------------------------------------|
| Annex A | What is Whistleblowing or a Code Complaint? A definition and examples.                |
| Annex B | Whistleblowing Contacts                                                               |
| Annex C | What to do if someone tells you about their concerns                                  |
| Annex D | Roles & Responsibilities                                                              |
| Annex E | Guidance on the Role of the Panel                                                     |
| Annex F | Guidance on Blowing the Whistle to an outside body                                    |
| Annex G | Guidance on the Main Provisions of Part IVA of the Employment Rights Act 1996         |
| Annex H | Specified regulators under the Employment Rights Act                                  |
| Annex I | The action we will take if you are dissatisfied about the way your concern is handled |
| Annex J | Examples of other concerns at work and the policies you should use to resolve them    |

## **Message from the Permanent Secretary**

As civil servants in the Welsh Government, we set the highest standards for ourselves and for the services we deliver. This is not only in terms of what we do, but also how we do it.

We are expected to work with integrity, honesty and objectivity, and to be totally impartial and completely ethical.

However, if you suspect that these standards are not being met, you have a duty to raise your concerns through the appropriate channels outlined in this policy. In the great majority of cases you should, as a first step, raise any issue of concern with your line manager.

I will be informed of all whistleblowing cases and concerns raised under the Civil Service Code (the Code) as they arise and will be kept up to date with progress in investigating and resolving the concern.

If you raise a concern you have my assurance that:

- you will not be disciplined or subjected to any other detriment to your career;
- we will take all reasonable steps to protect you from any personal detriment such as harassment or victimisation;
- if you ask us to protect your identity, we will try to do so for as long as it is within our control, is appropriate and legal to do so; and we can properly investigate or resolve the concern without revealing your identity;
- we will let you know how your concern will be dealt with, as far as we appropriately and lawfully can.

Applying the same standards of fairness, if you find yourself to be the subject of a Whistleblowing or Civil Service Code investigation and the concern turns out to be mistaken or groundless, we will take all reasonable steps to protect you from any detriment.

Finally, remember that this is an open organisation. If you ever have concerns about anything, even if it is not within the scope of this policy, I want to make clear that you are not only safe to speak up and challenge, but that I urge you to do so. If you ever feel that it's not safe for you to do that, you can email any of the Deputy Permanent Secretaries/Director General of DHSS/Directors of OFMCO, the Nominated Officers or get in touch with me at [Derek.jones@wales.gsi.gov.uk](mailto:Derek.jones@wales.gsi.gov.uk).

**Derek Jones**  
**Permanent Secretary**

## **1. What You Need To Know**

1.1 If you have a concern about wrongdoing within the Welsh Government you can raise your concerns with your line manager. If you do not wish to raise the matter with your line manager or s/he is involved or implicated in the suspected wrongdoing, you may contact any of the following:

- Your deputy director
- Head of Corporate Governance and Assurance – Helen Morris
- Director of Corporate Services – Peter Kennedy
- Chair of Trade Union Side – Katie Antipas
- Whistleblowing/ Code Nominated Officers
  - Director of Governance – David Richards
  - Whistleblowing Secretary – Jo Bergin

1.2 If you feel unable to speak with any of those listed above or feel that the issue is so serious that it has to be reported directly to the highest level, you can contact verbally or in writing, any of the following:

- your Deputy Permanent Secretary/Director General of DHSS/Director OFMCO
- the Permanent Secretary

1.3 Concerns that should be raised under this policy are:

- a criminal offence;
- a failure to comply with a legal obligation;
- a miscarriage of justice;
- the endangering of an individual's health or safety;
- damage to the environment;
- significant breaches of the standards required by the Civil Service Code;
- deliberate concealment of information relating to any of the above;
- Involvement in misappropriation or misuse of public funds.

1.4 The person with whom you raise your concern will refer it to any of the Nominated Officers who will discuss it with the Whistleblowing Panel. The panel will then decide how to proceed with the case. You will be kept informed throughout the process.

## 2. Our policy

- 2.1 The Senior Management of the Welsh Government **encourages** employees to report **any** suspected wrongdoing at the earliest opportunity and as soon as you have a reasonable suspicion. If you report a genuine concern, even if it turns out to be mistaken, you are doing your duty as a civil servant, and you will not be disciplined or subjected to any other detriment. On the contrary – if you fail in your duty to report suspected wrongdoing, that failure could in itself lead to disciplinary action.
- 2.2 Do not worry about whether your concern falls neatly into the whistleblowing categories or the Civil Service Code, the important thing is to report it in an appropriate way.
- 2.3 We consider each circumstance and a Panel identifies how to proceed with the information provided. It is our responsibility to ensure that the matter is investigated and dealt with appropriately.
- 2.4 We encourage you to raise the matter internally first which gives us an opportunity to discuss the matter with you (or the person who raises the issue on your behalf) so that we have as much first-hand information as quickly as possible to help us consider your concern. This also helps to ensure that we can support you throughout the process and let you know where you can get further advice and support.
- 2.5 We aim to take all reasonable steps to protect and support you when you raise a concern. Any employee who deters others from raising a concern or victimises or harasses another employee as a result of their having raised a concern under this policy will be dealt with under the Discipline policy. Any employee who victimises, harasses or causes detriment to another employee who has raised a whistleblowing concern may be personally liable for a compensation claim against them. Detrimental behaviour towards a whistleblowing employee will not be tolerated and is likely to lead to disciplinary procedures.
- 2.6 The Welsh Government is committed to taking whatever action is found to be necessary to address any wrongdoing that is uncovered.
- 2.7 The Director of Governance has day-to-day operational responsibility for this policy, and must ensure that all employees who may deal with concerns or investigations under this policy receive regular and appropriate training.

- 2.8 All employees are responsible for the success of this policy and should ensure that they use it to disclose any suspected danger or wrongdoing. Employees are invited to comment on this policy and suggest ways in which it might be improved. Comments, suggestions and queries should be addressed to the Head of HR Policy Development.

### **3. The procedure**

#### **Raising a concern**

- 3.1 If you suspect wrongdoing, you should make a note of what you believe to be the basis for the concern, the background and history, what happened, including details of names, dates, times, locations, what was said or what you observed and the reason why you are concerned. You should also keep a copy of any documentary evidence that you may have.
- 3.2 You should speak or write to any of the people listed in Section 1 “What you need to know” as soon as you can, using your note to explain your concerns. You may, if you wish, bring a colleague with you when raising the concerns.
- 3.3 If you suspect wrongdoing, you should not carry out any form of surveillance or monitoring of the actions of others; neither should line managers ask their staff to do so. We strongly encourage you to raise Whistleblowing and Code matters internally but if you decide to raise a Whistleblowing matter externally or make a wider public disclosure, you should read carefully the information contained in Annexes F, G & H. These detail the contacts and tell you about the legal protection you may be afforded in certain circumstances.
- 3.4 If you decide to raise a concern under the Code externally, this should be directly to the Civil Service Commission whose contact details are in Annex B.

#### **Protecting your identity**

- 3.5 If you are concerned about your identity being disclosed, you or the person you contact should let the Nominated Officer know when you tell them of your concern.
- 3.6 We will aim to respect your wishes if you ask us not to reveal your identity when you raise a concern. We will try to protect your identity for as long as it is within our control, it is appropriate and legal to do so, and we can properly investigate or resolve the concern without revealing your identity. If we think that it is necessary to reveal your

identity, we will aim to take all reasonable steps to give you advance notice of this.

- 3.7 You should also be aware that, even where we try to protect your identity, investigation into the matter may in itself reveal you as the source of the information or make it possible for another person to identify who has made the allegation. A statement may also be required from you as part of the evidence which would be seen by all parties involved, especially if there is a criminal investigation involving the police. In these circumstances, for the proper investigation of a criminal offence we may have to reveal your identity to the police. You may also be called to give evidence in court.
- 3.8 If your identity needs to be revealed to the police, the Nominated Officer will take all reasonable steps to give you advance warning of this. We will take all reasonable steps to protect you from any detriment.
- 3.9 We will not protect your identity in the event of us reporting to the police alleged conduct by an employee, either as a whistleblower or raising a concern under the Code, which we think may amount to a criminal offence (e.g. where an employee has used Whistleblowing or the Code to make a false accusation against someone else to distract attention from their criminal conduct).

### **The next steps**

- 3.10 Whoever you disclose your concerns to (if you do not yourself contact the Nominated Officers in the first instance) must contact one of the Nominated Officers, listed in Annex B to discuss how to proceed.
- 3.11 The Nominated Officer will report the case to the Panel to consider and, once the Panel have considered, will inform the person who contacts them whether the concerns fall under this policy or whether they should be dealt with under another policy.
- 3.12 If it appears necessary to take urgent interim measures the Nominated Officer will contact the appropriate Panel member who will take immediate action. For example, if it is necessary to protect public funds, the Nominated Officer will contact the Head of Corporate Governance and Assurance.
- 3.13 If your concern is to be treated as a whistleblowing or Code case, the Nominated Officer will contact you within 10 working days of your concern being notified to them to:
- Advise you of their role;
  - Acknowledge your concern and advise you, as far as they appropriately and lawfully can, how it will be taken forward;

- If appropriate, agree the best way of communicating with you to keep you updated on progress (and where possible an indicative timescale for the investigation), and any further information you may be asked to provide;
- Highlight the support available to you through your GP, the Employee Assistance Programme and the Occupational Health Team, your trade union and the independent bodies listed in Annex B , should you need any additional help in what might be a stressful situation for you;
- Explain that, if you have asked for your identity to be concealed, the Welsh Government will try to protect your identity for as long as it is within our control, it is appropriate and legal to do so, and we can properly investigate or resolve the concern without revealing your identity.

### **Investigating and resolving the concern**

- 3.14 The Panel Secretary, once notified by the Nominated Officer, will convene the Panel to oversee the case (see Annex E for details of the Panel's role and its membership).
- 3.15 If the Panel decides that the matter should be investigated, they will nominate the Investigating Officer who will be independent of those implicated in the matter and will be at Executive Band 2 or above. In certain circumstances, it may mean passing the information to the Police for criminal investigation. For further information on fraud visit the [Counter Fraud pages](#)
- 3.16 If a Deputy Permanent Secretary/ Director General/Director of OFMCO is implicated, the Permanent Secretary will appoint the Investigating Officer.
- 3.17 The Investigating Officer will conduct the investigation in line with what the Panel deems to be the most appropriate form of investigation, taking advice from professional colleagues, as appropriate. If the Panel is considering a form of surveillance or monitoring of the actions of others they must take advice from Legal Services before taking such steps.
- 3.18 The investigation report will be forwarded to the Panel as quickly as the investigation can be undertaken and within 10 working days of the investigation being requested, unless there are exceptional circumstances requiring further time.
- 3.19 The Panel will then decide what, if any, course of action will be taken to consider the matter and the appropriate process.
- 3.20 The Nominated Officer will tell the person who raised the concern whether the Panel have found there is a case to answer and whether steps have been taken with a view to resolving the concern. Whether

any further details of the case and the actions taken will be disclosed to the person who raised the concern, or to any other person or body, will depend on the circumstances of the particular case, and whether it is considered appropriate, reasonable and lawful to make any disclosure. Raising a concern does not automatically allow you access to internal documentation you would not normally have access to.

### **Anonymous allegations**

- 3.21 Anonymous allegations will be looked into, although concerns raised anonymously are less powerful and are often more difficult to investigate. We strongly encourage anyone reporting a concern not to remain anonymous but to come forward and discuss the matter with any of the persons set out in Annex B. Discussing your concern in this way will also mean that you will benefit from the protections set out in this policy and procedure. If you receive an anonymous allegation, you must report it to a Nominated Officer.
- 3.22 In determining whether or not to take an anonymous allegation forward under this policy, the Panel members will take into account the:
- Seriousness of the issue raised;
  - Credibility of the concern; and,
  - Likelihood of confirming the allegation from an attributable source and gaining information from them.

### **Malicious or Vexatious allegations**

- 3.23 If an investigation concludes that an employee has made a malicious or vexatious allegation, they may be subject to disciplinary action.
- 3.24 In this context an allegation is malicious or vexatious if the employee
- makes it with the deliberate intention of causing damage, harm, worry or annoyance to another, and,
  - knows at the time they make the allegation that it is false.

### **If your concern implicates all the Nominated Officers or members of the Panel**

- 3.25 If your concern implicates all of the Nominated Officers, you should still speak to your line manager in the first instance or if you are not comfortable doing so, inform another of the internal contacts listed in Annex B. Whoever you disclose your concern to must inform the Director of Legal Services of your concern. He will then arrange for an alternative Nominated Officer to be appointed to your case.



- 3.26 If your concern implicates all the Nominated Officers and the Director of Legal Services you should contact one of the other internal persons listed in Annex B who will refer the matter to the Permanent Secretary so that an alternative Nominated Officer can be arranged.
- 3.27 If your concern involves a member(s) of the Panel, the Nominated Officer dealing with your case will inform the Chair of the Panel who will nominate an alternative Panel member(s).
- 3.28 If a member(s) of the Panel and the Chair of the Panel are implicated then the Nominated Officer will refer the matter to the Permanent Secretary who will nominate alternative Panel members.

### **Keeping records**

- 3.29 Anyone recording, holding or using information relating to allegations made or dealt with under this policy should do so in accordance with the relevant legislation and the Welsh Government's policies and procedures on the management of, security of and access to, information. These policies and procedures can be found on the Information Management intranet pages.
- 3.30 The Data Protection Act 1998 (DPA) is likely to be particularly relevant where allegations are made or dealt with under this policy because allegations of wrongdoing by a person will be that person's personal data. The handling of that personal data must comply with the requirements of the DPA.
- 3.31 Once a case is concluded, all records relating to issues raised under this policy should be forwarded to the Whistleblowing Secretary and held securely on a registered file in a central repository by the Secretary in accordance with the DPA. Where an investigation reveals no evidence of wrongdoing, the Secretary will ensure any personal data gathered during an investigation is destroyed in accordance with the requirements of the DPA.
- 3.32 Any records of disciplinary procedures held as a result of an issue raised under this policy should be held in accordance with the DPA and WG's Discipline policy.

### **Publicity and Communication**

- 3.33 For this policy and procedure to be effective, it is essential that managers raise awareness of the policy with their staff from time to time in team meetings. The Panel Secretary will ensure the policy is publicised regularly using corporate channels such as the intranet Newspage.

### **Monitoring and Review**

- 3.34 This policy and procedure will be reviewed initially after 12 months and then every two years or whenever a relevant change in legislation occurs. In addition, the policy and procedure may be reviewed at other times, for example, if Nominated Officers or other employees involved in using it recommend any changes as a result of their experiences.

## What is Whistleblowing or a Civil Service Code complaint?

1. Whistleblowing occurs when an employee raises a genuine concern about any form of wrongdoing that they have become aware of through their work. The whistleblower need not necessarily be personally affected by the wrongdoing; the impact may be felt by others e.g. customers, the public or the employer.
2. A Civil Service Code complaint is where a concern is raised about a Welsh Government employee who it is alleged has breached the provisions of the Civil Service Code through their actions, behaviours or omissions.
3. Concerns which may be raised under this policy include:
  - a criminal offence;
  - a failure to comply with a legal obligation;
  - a miscarriage of justice;
  - the endangering of an individual's health or safety;
  - damage to the environment;
  - significant breaches of the standards required by the Civil Service Code;
  - deliberate concealment of information relating to any of the above;
  - Involvement in misappropriation or misuse of public funds.
4. You may report that you have reason to believe that one of the above has already occurred or that it is likely to occur.
5. This list is not exhaustive and should not prevent you raising any concern you have about improper behaviour or practice. The important thing is to speak up about your concern so that it can be addressed, rather than worrying about whether it is listed above. If you are unsure you may contact any of the Nominated Officers for advice.
6. Some examples of Whistleblowing and Civil Service Code complaints are outlined below:
  - *A company is intending to bid for work with the Welsh Government and an employee is providing them with information that they need to include in the bid, thereby giving the company a commercial advantage.*
  - *An employee has concerns that his line management are not properly applying the requirements of a particular piece of legislation. He is concerned about non-compliance and the significant embarrassment this may cause to the organisation.*

*He has raised his concerns directly with his line management who have advised that the process is to be done “their” way.*

- *An employee is using his position to promote a business to be awarded government contracts or work in which s/he or a family or relative has a commercial interest or is employed there.*

For the purposes of this policy an ‘employee’ includes all individuals working at all levels of the organisation, including senior managers, officers, directors, employees, consultants, contractors, trainees, homeworkers, part-time and fixed-term workers, temporary and agency staff [and volunteers].

## **Whistleblowing and Civil Service Code Contacts**

### **Internal Contacts**

1. We want to make it as easy as possible for you to speak with the person that you feel most comfortable with in raising your suspicions, without worrying whether that person is the right person to choose from the list.
2. You may raise a Whistleblowing / Code concern with any of the following;
  - Your line manager;
  - Your deputy director;
  - Head of Corporate Governance & Assurance – Helen Morris;
  - Director of Corporate Services– Peter Kennedy
  - Whistleblowing / Code Nominated Officers
  - Chair of Trade Union Side – Katie Antippas
3. The Whistleblowing / Code Nominated Officers are:  
  
Director of Governance– David Richards  
Whistleblowing Secretary– Jo Bergin
4. If you feel unable to speak with any of those listed above, or feel that the issue is so serious that it has to be reported directly to the highest level, you can contact verbally or in writing, any of the following,
  - Your Deputy Permanent Secretary / Director General of DHSS / Director OFMCO
  - The Permanent Secretary

### **Trade Unions**

5. You may also obtain advice and guidance on how to take your concern forward from your Welsh Government trade union representative. However, you should be aware that if in the course of obtaining advice and guidance, you disclose details of your concern your trade union representative may be under a duty to report your concern, if you decide not to take it forward.

## Independent Contacts

6. The following are independent contacts that will provide you with advice and guidance on how to take your concern forward. In certain circumstances, they may also raise the matter with the Welsh Government on your behalf
- your professional association;
  - your national trade union;
  - Public Concern at Work (the independent authority on public interest whistleblowing). Established as a charity in 1993, PCaW has played a leading role in putting whistleblowing on the governance agenda and in developing legislation in the UK and has a helpline for whistleblowers.

You can contact PCaW on 0207 404 6609 or at [www.publicconcernatwork.org.uk](http://www.publicconcernatwork.org.uk) or at:

Suite 301  
16 Baldwin Gardens  
London  
EC1N 7RJ

7. You can raise your Civil Service Code or whistleblowing concern with the Civil Service Commission who will, exceptionally, agree to look into a matter which has been referred to them without exhausting internal procedures first. They can be contacted at

G/08  
1 Horseguards Road  
London  
SW1A 2HQ

Email: [info@csc.gsi.gov.uk](mailto:info@csc.gsi.gov.uk)

## **What to do if someone tells you about their concerns**

1. If someone tells you about potential wrongdoing at work, whether you are in a work or social situation at the time, you have a duty to report these concerns to one of the people listed in Annex B. This duty applies even if you were not told in an official capacity or the individual tells you in confidence and they have no intention of reporting it themselves.
2. You should advise the individual that, now they have made you aware of the suspected wrongdoing, under the Civil Service Code you have a duty to report what you have been told and that you will do so.
3. This duty also applies to the Nominated Officers and any of the internal contacts listed in Annex B. Once you have told any of these contacts about potential wrong-doing, they have a duty to report it.
4. You should not promise the individual that you will, or will try to, conceal their identity when you report the alleged wrongdoing they have told you about. It will be up to the officials who deal with the allegation, such as the Nominated Officers listed in Annex B or Panel members to decide whether they need to ask you to identify the individual who made the allegation to you.

## **Roles and Responsibilities**

### **Employees are responsible for:**

- Reporting any wrongdoing in accordance with Civil Service Code and this policy and procedure;
- Comply with any request to assist with an investigation or attend any other meeting to resolve a Whistleblowing or Code case; and,
- Maintaining confidentiality by not discussing any case with anyone other than those authorised to deal with that case.

### **Managers are responsible for;**

- Ensuring employees are aware of the whistleblowing policy and how to raise a concern;
- Upholding and promoting the Civil Service Code to employees;
- Reporting any concerns raised with them by employees to the Nominated Officers or other Whistleblowing / Civil Service Code contacts listed in Annex B;
- Supporting employees who raise a concern and those who may be the subject of or involved in a Whistleblowing / Civil Service Code case until the process is concluded; and;
- Ensuring they comply with this policy, including the requirement that they must not ask their staff to carry out any form of surveillance or monitoring of the actions of others.

### **Human Resource Business Partners are responsible for**

- Providing advice and guidance on this policy and procedure to managers and employees involved in Whistleblowing and Code cases: and,
- Acting as an HR representative on a panel, if required, and providing appropriate support.

### **Corporate Shared Service Centre is responsible for:**

- Responding to general queries from employees on this policy and procedure;



**Whistleblowing and Civil Service Code Nominated Officers are responsible for:**

- Acting as a contact point for employees who wish to raise a concern under this policy;
- Signposting employees to the most appropriate person to deal with their concern if it is clearly not a Whistleblowing or Code issue;
- Discussing more complex issues with the Panel and any relevant Welsh Government officials (e.g. Head of HR Policy Development, Director of Corporate Services or the Head of Governance and Assurance) to determine the appropriate policy under which issues should be addressed;
- As far as they appropriately and lawfully can, providing regular progress updates and communicating the outcome of cases to employees who have raised a concern;
- Signposting employees who have raised a concern to sources of personal support and further advice and guidance;
- Ensuring the Secretary of the Panel is sent all records of cases and these are kept in accordance with the relevant legislation and the Welsh Government's policies and procedures on the management of, security of and access to, information; and,
- Recommending any changes to this policy and procedure in the light of their experiences in delivering their role.

**The Panel is responsible for:**

- Deciding whether an investigation should take place and if so, what form it should take and appointing an Investigating Officer to undertake it; and,
- Receiving the investigation report and deciding on an appropriate course of action to consider the case; and,
- Meeting at least quarterly to consider any new Whistleblowing or Code concerns, review any ongoing cases and discuss general matters relating to this policy.

**Investigating Officer is responsible for**

- Carrying out an impartial and independent investigation;
- Reporting findings to the panel in an unbiased, factual and fair manner.

## **Guidance on the role of the Panel**

### **The Role**

1. The Panel will agree the way forward, taking advice as necessary, and oversee the appropriate course of action to be taken in each case reported to them.
2. This will include:
  - deciding whether or not a case should be investigated and commissioning the Investigating Officer;
  - advising the Investigating Officer on the form the investigation should take; and;
  - considering the investigation report and deciding what, if any, course of action should be taken in the light of the findings and the appropriate process.

### **Membership**

3. As a minimum the Panel will comprise:
  - Director of Governance - Chair
  - Director of Corporate Services
  - Head of Governance and Assurance
  - Trade Union Chair
  - Secretary
4. The Panel may draw on the following representatives to consider cases as appropriate,
  - A representative of the Department for Legal Services (at a minimum grade of Executive Band 2)
  - Senior HR Business Partner of the directorate to which any current cases relate
  - WG Security Adviser
  - Internal Audit
  - Trade Union Representative
5. Panel members commit to attending all meetings, unless there are compelling personal or business reasons.
  - If the Chair of the Panel is not able to attend, he/she will arrange for another Panel member to chair the meeting.

- If the Head of Governance and Assurance is not able to attend, he/she may suggest a deputy to the Secretary who will discuss the substitution with the Chair of the Panel to confirm if it is appropriate.
- The Panel may ask other officials of the organisation to attend to assist with its discussions.

### **Reporting**

6. The Nominated Officer will advise the Chair of the Panel of new cases as they arise.
7. The Chair of the Panel will also update the Permanent Secretary on progress towards considering ongoing cases and any action taken.

### **Meetings**

8. Meetings will be held at least quarterly with dates agreed 12 months in advance.
9. If a scheduled meeting is not due within 10 working days of a new concern being reported to the Nominated Officer, a special meeting will be convened to discuss the matter.
10. Panel members may also meet outside of quarterly and special meetings as necessary as a group or separately to take forward Panel business.

### **Secretary**

11. There will be a secretary to the Panel. Their role will include:
  - Agreeing dates for quarterly meetings on a rolling basis 12 months in advance and any dates for special meetings
  - Providing advice and guidance to officials and Nominated Officers on procedures
  - Booking rooms and other associated arrangements
  - Circulating any related documentation at least 5 working days in advance of the meeting, wherever possible
  - Arranging for any additional persons to attend meetings at the request of the Panel
  - Taking a note of meetings
  - Preparing any reports required for the Permanent Secretary on behalf of the Panel
  - Providing statistics on cases to the Welsh Government Board
  - Publicising the policy and any changes on a regular basis

## **Guidance on Blowing the Whistle to an outside body**

### **External disclosures**

1. Raising a concern externally, not in accordance with this Whistleblowing procedure will be treated as a serious disciplinary offence, which could result in dismissal unless your action is protected by the Employment Rights Act 1996 (Part IVA Protected Disclosures) (ERA).
2. The Civil Service Code says that employees must not disclose confidential information without proper authority. This duty continues to apply after you leave the Civil Service.
3. In considering taking a concern to an authority which is not approved within this policy and procedure (i.e. listed in Annex B) or specified in ERA in respect of certain matters (see list of some of the specified bodies and matters in Annex H) you should be aware of your duty of confidentiality under the Civil Service Code and should ensure that no confidential information is divulged, unless the circumstances are such that they attract the protection of ERA.
4. If you are thinking of making an external disclosure, you may wish to seek advice from your trade union or an external legal adviser. If you do seek such advice, the adviser will need to know at least some details about the information, or the kind of information, you are considering disclosing. If you make a disclosure in the course of obtaining legal advice or advice from your trade union or professional association, you will be protected by ERA.

### **Legal protection**

5. You are protected by law under the ERA provided your disclosure meets certain conditions. It is not mandatory for workers to speak to their employer first. There can be legitimate reasons why a worker might want to raise their concern outside an organisation, either before or after talking to their employer. ERA protects such disclosures providing the worker acts in the responsible ways set out in the Act. A summary of your protection under ERA can be found in Annex G.

### **Raising a Concern under the Civil Service Code Externally**

6. For concerns raised under the Civil Service Code, the only external body that should be contacted is the Civil Service Commission, who will, exceptionally, agree to look into a matter which has been referred to them without exhausting internal procedures first. They can be contacted at:

## Whistleblowing and Civil Service Code policy

The Civil Service Commission  
G/08  
1 Horseguards Road  
London  
SW1A 2HQ

Email: [info@csc.gsi.gov.uk](mailto:info@csc.gsi.gov.uk)

## **Guidance on the Main Provisions of Part IVA of the Employment Rights Act 1996, as amended by the Public Interest Disclosure Act 1998 and Enterprise and Regulatory Reform Act 2013**

1. The Act gives workers redress against reprisal (including dismissal) because they have raised a concern about wrongdoing. This Annex does not deal with all the provisions of the Act.
2. It does not introduce a general protection for whistleblowers in all circumstances. In particular, the whistleblower will not be protected if, in disclosing the information, he or she commits a criminal offence.
3. In order to benefit from the protection of the Act and of this Policy, a disclosure must satisfy certain conditions. The first condition relates to the subject-matter of the disclosure. There is then a further set of conditions depending on who the disclosure is made to.

### **Subject-matter of the disclosure**

4. The Act protects only disclosures of information which, in the whistleblower's reasonable belief, tends to show that one of the following acts has occurred, is occurring or is likely to occur. The specified acts are:
  - a criminal offence;
  - a failure to comply with a legal obligation;
  - a miscarriage of justice;
  - the endangering of an individual's health or safety;
  - damage to the environment;
  - deliberate concealment of information relating to any of the above.
5. If your belief turns out to be mistaken, you will still be protected provided that it was reasonable to think as you did.

### **Who the disclosure is made to**

6. Disclosure to the employer (i.e. an internal disclosure) will be protected provided that the information falls within [paragraph 4](#).
7. Disclosures to an external person or body which have been authorised under an employer's procedure have the same protection as if they had been made to the employer. Under this policy, the Welsh Government has authorised disclosures to an employee's trade union or professional association, and to the charity Public Concern at Work.

8. Disclosure to specified regulators will be protected if:
  - the information falls within [paragraph 4](#) and
  - the whistleblower reasonably believes that the information and any allegation in it are substantially true **and**
  - the regulator is one of those specified in an order made by the Secretary of State and
  - the whistleblower reasonably believes that the allegation is about a matter which is set out in the Secretary of State's order next to that particular regulator's name.
9. Annex H lists some of the regulators and the matters about which disclosure can be made to them.
10. Disclosure to legal advisers will be protected if:
  - the information falls within [paragraph 4](#) and
  - the disclosure is made in the course of obtaining legal advice.
11. Wider Public Disclosure to other external bodies (e.g. the police, the media, MPs) will only be protected if:
  - the information falls within [paragraph 4](#) and
  - the whistleblower reasonably believes that the information and any allegation in it are substantially true and
  - the circumstances of the case make it reasonable for the whistleblower to make the disclosure to the other external body (see below) and,
  - one of the conditions set out below are met.
12. The conditions are:
  - the whistleblower must reasonably believe that they may be victimised if they raise the matter internally or with a prescribed regulator **or**
  - there is no relevant prescribed regulator and the whistleblower reasonably believes that evidence related to the disclosure they wish to make is likely to be concealed or destroyed if they raise the matter internally **or**
  - the concern has already been raised with the employer or a prescribed regulator.
13. The Act sets out some factors which must be considered in order to decide whether the circumstances of the case make it reasonable for the whistleblower to make the disclosure to the other external body. Broadly speaking, these factors are:
  - the seriousness of the allegation

- whether it is ongoing or likely to occur again
  - whether the disclosure breaches a duty of confidentiality owed by the employer to someone else
  - any action already taken by the employer or specified regulator if the employee has previously made the disclosure to them
  - whether a previous disclosure by the employee to his employer complied with any procedure that employer had in place
  - the identity of the external body to whom the disclosure is made.
14. The Act also protects disclosures made to external bodies where the first two bullet points in paragraph 11 only are met, if the allegation is of an exceptionally serious nature and, in all the circumstances of the case, it is reasonable for the employee to make the disclosure. The person or organisation to whom the employee has chosen to make the disclosure is likely to be an important factor in deciding whether a particular disclosure was reasonable. Disclosure to the media is unlikely to be reasonable except in very unusual circumstances, for instance where the maximum number of people need to be warned of an imminent danger. ERA will not protect employees who contact the media in the hope of gain.
15. Where the disclosure of the information is found to be in breach of the Official Secrets Act or any other secrecy offence, the whistleblower will lose the protection of the Act if he has been convicted of the offence or that an employment tribunal is satisfied, to a high standard of proof approaching the criminal one, that he committed the offence.



## **Specified regulators under the Employment Rights Act**

1. The ERA protects you in certain circumstances if you report your concern to a regulator specified in an order made by the Secretary of State.
2. If you decide to blow the whistle to a specified regulator rather than the Welsh Government whistleblowing contacts listed in Annex B, you must make sure that you have chosen the correct body for your issue.
3. Listed below are some of these bodies and the matters which you can report to them. A full list can be found at :  
<https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2>

### **The Commissioners for Her Majesty's Revenue and Customs**

- 4 About concerns relating to value added tax, insurance premium tax, excise duties and landfill tax, the import and export of prohibited or restricted goods, income tax, corporation tax, capital gains tax, petroleum revenue tax, inheritance tax, stamp duties, national insurance contributions, statutory maternity pay, statutory sick pay, tax credits, child benefits, collection of student loans and the enforcement of the national minimum wage.

#### **Contact**

HM Revenue and Customs  
Freepost NAT22785  
Cardiff  
CF14 5GX

Tax evasion hotline  
Tel: freephone 0800 788 887  
Free fax 0800 783 0879  
Textphone: 0845 915 3296  
[www.hmrc.gov.uk](http://www.hmrc.gov.uk)

### **Auditor General for Wales**

5. About concerns relating to the proper conduct of public business, value for money, fraud and corruption in relation to the provision of public services. You can e-mail [whistleblowing@wao.gov.uk](mailto:whistleblowing@wao.gov.uk) or write to 'The PIDA Officer' at the address below or see our [Whistleblowing page](#).

**Contact**

The Auditor General for Wales  
24 Cathedral Road  
Cardiff  
CF11 9LJ  
Tel: 01244 525980  
Email: <mailto:whistleblowing@wao.gov.uk>  
[www.wao.gov.uk/whistleblowers-hotline](http://www.wao.gov.uk/whistleblowers-hotline)

**Financial Conduct Authority**

6. About concerns relating to the operation of banks, building societies, investment or insurance businesses or any other activities regulated by the Financial Conduct Authority, for example, financial crime.

**Contact**

Intelligence Department (Ref PIDA)  
The Financial Conduct Authority  
25 The North Colonnade  
Canary Wharf  
London  
E14 5HS  
Tel: 020 7066 9200  
Fax: 020 7676 9727  
Email: [whistle@fsa.org.uk](mailto:whistle@fsa.org.uk)  
[www.fca.org.uk/site-info/contact/whistleblowing](http://www.fca.org.uk/site-info/contact/whistleblowing)

**Health and Safety Executive**

7. About matters relating to health or safety at work or the health and safety of the public in connection with workplace activities.

**Contact**

Health and Safety Executive  
Tel: 0300 003 1647  
Online Form : [www.hse.gov.uk/contact/raising-your-concern.htm](http://www.hse.gov.uk/contact/raising-your-concern.htm)

**The Information Commissioner**

8. About matters relating to data protection and/or freedom of information rights and duties in England and Wales.

**Contact**

The Office of the Information Commissioner  
Wycliffe House  
Water Lane Wilmslow  
SK9 5AF  
Telephone: 0303 123 1113  
Email: <mailto:casework@ico.gsi.gov.uk>  
[www.ico.gov.uk](http://www.ico.gov.uk)

## Annex I

### **The action we will take if you are dissatisfied about the way your concern is handled**

1. If at any point, you are dissatisfied with the way that your concern is being handled, you should report your dissatisfaction to the Nominated Officer dealing with your case or the Secretary to the Panel.
2. The Nominated Officer will ask the Director of Legal Services to meet the Panel to review the action taken to consider your concern.
3. The Director of Legal Services will then decide whether or not the case is being handled/was handled appropriately.
4. The Nominated Officer/Secretary will then contact you and let you know this decision.
5. If the case is:
  - ongoing, and the decision is that it is being handled appropriately, it will continue to be progressed until a conclusion is reached. If it is not being handled appropriately, then the Director of Legal Services will make recommendations to the Panel to resolve the case satisfactorily.
  - concluded, and it is found that it was handled appropriately, then that will be the end of the internal review. If the decision is that the case was not handled appropriately, the Director of Legal Services will decide on the way forward which may mean re-opening the case for further investigation or making recommendations to the Panel on how the matter should be concluded.
6. In either event, you will be kept informed of progress by the Nominated Officer/Secretary, as far as they appropriately and lawfully can.
7. If you are still not satisfied with the response you have received, you may contact the Civil Service Commission at

G/081 Horseguards Road  
London  
SW1A 2HQ

Email: [info@csc.gsi.gov.uk](mailto:info@csc.gsi.gov.uk)

## **Examples of Concerns at Work and the policies you should use to resolve them**

### **1. Grievance policy**

1.1 Concerns which may be raised under this policy relate to personal and individual disputes or problems.

1.2 When an employee complains of a grievance, they are in effect saying that they have personally been poorly treated. Poor treatment could in the extreme involve an alleged breach of an individual's employment rights. The complainant is seeking redress for themselves and therefore has a personal interest in the outcome of the complaint. For this reason, they are expected to prove their case. These kinds of issues should be dealt with through the Grievance policy.

1.3 Specific examples include:

*An employee wishes to work compressed hours and their manager has refused their request. The individual is unhappy with the manager's response and wishes to take it further.*

*An employee has been turned down for organisational support to study for a qualification and is not satisfied that he has not been given any objective reason for this, despite repeated requests to his manager.*

### **2. Dignity at Work policy**

2.1 Concerns which may be raised under this policy are those where an employee feels harassed, bullied, victimised or discriminated against.

2.2 Specific examples include:

*An employee being constantly and unfairly criticised by a colleague or manager.*

*An employee being subject to racist comments.*

### **3. Discipline policy**

3.1 This policy is about investigating and addressing instances where an employee's conduct or behaviour is alleged to have deviated from expected standards.

3.2 Specific examples include:

*An employee is absent from work without authorisation.*

*An employee seriously breaches health and safety or security rules*

#### **4 Fraud policy**

- 4.1 Concerns which may be raised under this policy relate to fraud and money laundering. Chapter Four of the Corporate Governance Manual (available on the Corporate Governance intranet) provides guidance on the responsibilities of employees regarding the prevention of fraud and what you should do if you suspect fraud.

- 4.2 Specific examples include:

*Misuse of funds and /or official resources.*

*Benefiting financially from dishonest activities.*

*“Tipping off” by informing a person or people who are, or are suspected of being, involved in money laundering, in such a way as to reduce the likelihood of their being investigated, or prejudicing an investigation.*

#### **5 Appeals against management decisions policy**

- 5.1 This policy applies to a variety of appeals including where an employee has a crisis of conscience, for example in respect of an instruction to do something which appears to be illegal, improper, or unethical; is in breach of constitutional convention or a professional code; may involve possible maladministration; or is otherwise inconsistent with the Staff Code of Conduct or the Civil Service Code.

- 5.2 Specific examples might include where an employee is instructed by their manager to:

*Accept a tender submission after the official deadline has passed.*

*Provide personal or subjective advice to a Minister and to present it as though it were objective, factual or impartial.*