

Confidential Reporting (“Whistleblowing”) Policy

Introduction

1. The objective of the PSOW is to provide a first class ombudsman service. To support this objective 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.
2. Members of staff could well be the first to realise that something seriously wrong may be happening within the Ombudsman’s office. However, they 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. In these circumstances it might be easier to ignore the concern than to report what might be a genuinely held suspicion of malpractice or wrongdoing.
3. This policy makes it clear that members of staff can report their genuine concerns, where necessary and appropriate on a confidential basis, without fear of reprisals and in the knowledge that the Ombudsman will appreciate such disclosure and that he recognises that in doing so staff are doing the “right thing”.
4. This policy applies the provisions of the Public Interest Disclosure Act 1998 to the administration of the Ombudsman’s office. This policy also recognises that it is often a difficult decision for staff to make a disclosure under its terms and therefore they may 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 make a disclosure.

Aims and Scope of this policy

5. This policy aims to:
 - provide a means for staff to raise concerns and to receive feedback on any action taken; and

- allow staff to take their concerns further if they are dissatisfied with the Ombudsman's response
- reassure staff that they will be protected from reprisals or victimisation from disclosures made in good faith

6. There are existing procedures in place to enable staff to lodge a grievance relating to their employment. This disclosure policy is intended to cover concerns which fall outside the scope of that procedure.

7. Concerns raised under this policy should tend to show that:

- a criminal offence has been committed or is likely to be committed; and/or
- a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject; and/or
- a miscarriage of justice has occurred, is occurring or is likely to occur; and/or
- the health or safety of any individual has been, is being or is likely to be endangered; and/or
- the environment has been, is being or is likely to be damaged; and/or
- information tending to show any matter above has been, is being or is likely to be deliberately concealed

8. The overriding concern should be that it would be in the public interest for the malpractice or wrongdoing to be corrected and, if appropriate, sanctions applied.

Safeguards

9. The Ombudsman 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 subject of the alleged malpractice or wrongdoing. The Ombudsman will not tolerate harassment or victimisation and will take action to protect staff when they raise a concern in good faith. The Ombudsman will regard any harassment or victimisation as a serious disciplinary offence to be dealt with under his Discipline Policy.

10. This does not mean that if staff are already the subject of disciplinary or redundancy procedures, that these procedures will be halted as a result of their disclosure under this policy.

11. The Ombudsman will do his best to protect a staff member's identity when they raise a concern and do not want their name to be disclosed. However, the investigation process may reveal the source of the information or may be hampered by not revealing the source. In these circumstances the Ombudsman may reveal the source of the information

but only after the reasons for the such action have been fully discussed with the staff member.

12. Staff are encouraged to put their name to the allegation. Concerns expressed anonymously are much less powerful but they may be considered at the Ombudsman's discretion. In exercising his discretion the Ombudsman will consider:

- the seriousness of the issues raised;
- the credibility of the concern;
- the likelihood of confirming the allegation from attributable and credible sources;
- the best interests of PSOW;
- the protection of PSOW's assets

Staff making an anonymous disclosure need to bear in mind that it will be more difficult to investigate their concern and for feedback to be provided.

13. If staff make an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against them. If, however, staff make malicious or vexatious allegations, disciplinary action may be taken against them.

How you can raise a concern?

14. As a first step you should normally raise your concerns with your line manager. However, depending on the seriousness and sensitivity of the issues involved and/or who is thought to be involved in the alleged malpractice it may be appropriate to raise the concern directly with the Director of Corporate Services, or the other Director if the Director of Corporate Services is thought to be involved. If both Directors are thought to be involved in the malpractice then the matter should be raised directly with the Ombudsman. In extreme circumstances where no member of the senior management team is considered appropriate the concern may be raised with the Chair of the Audit Committee.

15. Concerns are better raised in writing. You are encouraged to set out the background and history of your concern, giving as much detail as possible including why you are particularly concerned about the matter. If you do not feel able to put the concern in writing then you should meet the appropriate manager (see paragraph 14) to outline your concerns.

16. The earlier concerns are raised; the easier it is to take action. You are encouraged to raise any concerns at the earliest opportunity. When raising the concern you will need to show the person contacted that there are sufficient grounds for the concern. It is not expected that you will necessarily be able to prove your concern and disclosure should not be delayed to enable proof to be obtained.

17. You may ask a trade union representative or work colleague to raise a matter on their behalf and/or to accompany you during any part of the process.

What will happen next?

18. The recipient of the disclosure 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 Welsh Audit Office. The result of the preliminary enquiry, which should be completed within 5 working days, will be reported to the Director of Corporate Services (or other Director or Ombudsman) 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 initial investigation take longer than five working days the Director of Corporate Services (or other director or Ombudsman) will be informed so that the provisions of paragraph 20 can be complied with.

19. Some concerns may be resolved by action agreed between you and the recipient of the disclosure without the need for investigation; or it may be that an investigation can be completed without the person or persons under investigation being aware of the process.

20. In any event the Director of Corporate Services (or other director or Ombudsman) will within 10 working days of the disclosure being made write to you at your 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 you whether any initial enquiries have been made, and
- telling you whether further investigations will take place, and if not, why not
- naming an independent member of staff to support you during any investigation

21. The named support officer will make contact with you immediately and:

- explain his/her role
- deal with all confidentiality issues
- agree frequency of contact and keep you informed of the progress of the investigation
- inform the investigating officer of any further issues you think necessary

You should raise with your support officer any concerns you may have about the conduct of the investigation. You will be supported by your support officer in the office and at any criminal or disciplinary proceedings which may result from your concern and at which you are asked to give evidence.

22. If you wish to retain your anonymity you will need to nominate a representative (who may be your support officer or trade union representative) to whom correspondence may be directed in order to keep you informed.

23. The amount of contact between the investigating officer and you will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information may be sought from you. If the investigating officer arranges a meeting with you, you have the right to be accompanied by a trade union representative (who may not be associated with the Ombudsman's office) or a work colleague.

24. It is important that you are assured that your concerns have been treated seriously and properly addressed. At the conclusion of the investigation, subject to legal constraints, the Director of Corporate Services (or other director or Ombudsman) will provide you with information about the outcome of any investigations and or proceedings.

How the matter can be taken further?

25. This policy has been written to take account of the Public Interest Disclosure Act 1998. This act gives protection to a person who makes a qualifying disclosure from subsequent victimisation by his/her employer. Disclosures about matters contained in paragraph 7 above and in accordance with the procedure set out subsequently are protected under the act. The Ombudsman hopes that you will be satisfied with the response from the internal procedure. However, you may be dissatisfied or may feel initially that would be better to make a disclosure to an outside body, described as "prescribed persons" in the act, such as the Auditor General for Wales or Information Commissioner.

26. Such an external disclosure will be protected provided it is about a matter described in paragraph 7 and:

- you honestly believe that the information and any allegation contained in it are substantially true
- the disclosure is not for personal gain
- that you have first raised the concern with the Ombudsman unless you reasonably believe that (i) you will be victimised or that there will be a cover up or (ii) that the matter is exceptionally serious

Before making an external disclosure It is advisable to seek advice from a trade union representative or an organisation which can give independent and confidential advice such as the charity "Public Concern at Work" (tel 0207404 6609; www.pcaaw.co.uk).

Responsibility and Monitoring

27. The Director of Corporate Services 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 Committee, in an anonymised format, details of any disclosures made under the policy and the outcome of investigations. This policy will be reviewed annually.