



Llywodraeth Cymru
Welsh Government

Council for Economic Renewal

Whistleblowing Policy - Best Practice

Issue

1. In line with best practice, it is appropriate that organisations regularly review their Whistleblowing policies and procedures to ensure that they are fulfilling their responsibilities under the Public Interest Disclosure Act 1998.

Recommendation

2. Members are invited to note the contents of this paper and are encouraged to ensure they have robust Whistleblowing policy and procedures in place.

Background

3. Making a disclosure in the public interest or 'whistle blowing' is the process through which an employee reports suspected wrongdoing within their place of work.

Whistleblowing legislation

4. Whistleblowing arrangements fall within the remit of Employment Policy and Legislation which is not devolved, responsibility for this lies with the Department for Business, Innovation and Skills (BIS).

5. The Public Interest Disclosure Act (PIDA), 1998 protects the employment rights of most workers in the public, private and voluntary sectors who report in good faith a malpractice in their workplace. The Act requires organisations to have in place a whistleblowing policy or procedure. At a minimum, this will be a senior manager responsible for addressing concerns raised in confidence outside the usual management chain. Further information on PIDA is attached at Annex 1 and is also available from the BIS website.

6. The Welsh Government does not have responsibility for whistle blowing policy or procedures in other organisations. However, we are keen to provide leadership on whistleblowing in Wales and aim to lead by example through our own whistleblowing policy and procedures. We have also

undertaken particular work in the fields of Education and Health to ensure guidance and best practice models are readily available. Further information on the Welsh Government whistleblowing policy is attached at Annex 1 and a copy of the policy can be requested from the Secretariat.

Whistleblowing Best Practice

7. Good practice means that organisations should do all they can to protect the confidentiality of whistleblowers and to ensure that they are not adversely affected by their disclosures.
8. We all have a responsibility to actively encourage individuals who believe that there is wrongdoing in their workplace to speak out and challenge. It is important that they feel assured and confident that their disclosure will be listened to and taken seriously without fear of detriment or victimisation.
9. Individuals who wish to report a wrongdoing should have access to guidance and support. It is important that organisations' have internal procedures which are simple to use, readily accessible and which workers are encouraged to follow.
10. Other key sources of guidance include the Wales Audit Office which has information on its website. Free advice and support is also provided by the independent charity Public Concern at Work.
11. It is the responsibility of each organisation to establish a robust, user friendly, whistleblowing policy. Taking whistleblowing seriously will help us to achieve the high standards of public service delivery and a thriving economy that we all wish to see in Wales.

**Minister for Finance and Leader of the House
February 2012**

Annex 1**Background information on PIDA and the Welsh Government Whistleblowing Policy**Public Interest Disclosure Act (PIDA) 1998

1. The Public Interest Disclosure Act, 1998 protects the employment rights of most workers in the public, private and voluntary sectors who report in good faith a malpractice in their workplace. The Act does not apply to genuinely self employed professionals (other than in the NHS), voluntary workers (e.g. charity volunteers), police officers and the Intelligence Services.
2. A qualifying disclosure about malpractice includes: criminal offences, failure to comply with a legal obligation, threats to an individual's health and safety, damage to the environment etc. Protection under the provision applies even if the qualifying disclosure concerns a relevant failure which took place overseas, or where the law applying to the relevant failure was not that of the UK.
3. For a disclosure to be protected by law it should be made to the right person and in the right way. The Whistleblower must:
 - make the disclosure in good faith (with honest intent and without malice)
 - have reasonable belief that the information is substantially true
 - have reasonable belief that they are making the disclosure to the right 'prescribed person' - For a disclosure to be protected it must be reported to an appropriate person or body which has been prescribed by the Secretary of State for the purpose of receiving such disclosures.
4. A list of key prescribed persons is available on the BIS website. In Wales these include the Auditor General Wales and the Care Council for Wales etc. The Act states that a protected disclosure can be made to a Minister by a worker employed in a Government appointed organisation. In terms of the Private Sector, an individual may approach the Secretary of State for BIS about insider dealing or fraud and other misconduct in relation to companies, investment business, insurance business, or multi-level marketing schemes.
5. There are some disclosures that can't be qualifying disclosures. Individuals will not be protected if they signed the Official Secret's Act as part of their employment contract or the information is protected under legal professional privilege.
6. In general, workers should be able to make disclosures about wrongdoing to their employer, so that problems can be identified and resolved quickly within organisations. The Act requires organisations to have in place a whistle blowing policy or procedure. At a minimum, this will be a senior

manager responsible for addressing concerns raised in confidence outside the usual management chain.

7. An organisation should take all reasonable steps to protect a whistleblower from any personal detriment or victimisation as a result of their disclosure. If an employee who meets the requirements to protection under the Public Interest Disclosure Act is dismissed for complaining about malpractice at work they can make a claim for unfair dismissal. Should an employee feel they have been subject to victimisation or detriment either as a result of raising a concern directly with their employer or by raising it with another nominated body then they may wish to seek a remedy by making a claim to an Employment Tribunal.
8. Applying the same standards of fairness, if an individual finds themselves to be the subject of a whistle blowing investigation and the concern turns out to be mistaken or groundless, then an organisation should take reasonable steps to protect that person from any detriment.

Welsh Government Whistleblowing Policy

9. The Welsh Government like all Public Sector bodies is covered by the Public Interest Disclosure Act, 1998. The Welsh Government has a full whistleblowing policy and procedures in place that provides guidance to staff on all aspects of whistle blowing within the Welsh Government.
10. Under the procedures staff may raise concerns with their line manager, nominated whistleblowing officers, Directors General and the Permanent Secretary. There is a Whistleblowing panel in place that meets quarterly to consider cases.
11. Where a Civil Servant raises a concern in good faith they have the Permanent Secretary's assurance that they will not be disciplined or subjected to any other detriment in their career. We will take all reasonable steps to protect them from any personal detriment such as harassment or victimisation. If they ask us to protect their identity then we will try to do so for as long as it is without control, it is appropriate and legal to do so, and where we can properly investigate or resolve the concern without revealing their identity.
12. The Welsh Government sets itself high standards for the work it does and the services it delivers. This relates not just to how we do but how we do it. Civil Servants are bound by the Civil Service Code and the Welsh Government Code of Conduct for staff setting out the standards of behaviour expected. We are expected to work with integrity honesty and objectivity, and to be totally impartial and completely ethical. If an individual suspects these standards are not being met they have a duty to raise their concerns. The policy protects the whistleblower and, applying the same standards of fairness, individuals from public criticism as a result of mistaken allegations.

13. The Welsh Government Whistleblowing Policy encourages its staff to raise concerns internally and which reassures them that genuine concerns reported in an appropriate way will not lead to disciplinary action.
14. The Civil Service Code says that civil servants must not disclose confidential information without proper authority. The Whistleblowing policy clearly states that raising a concern externally, not in accordance with policy, will be treated as a serious disciplinary offence unless the action is protected under PIDA.

Handling a disclosure from an external organisation

15. The Welsh Government encourages disclosures to be made internally to the employer in the first instance so that problems can be identified and resolved quickly within organisations. If the whistleblower has disclosed their concerns internally and is worried either by the response or lack of response, or if they feel unable to talk to anyone internally, then there are other prescribed people they can go to make a disclosure.
16. Should the Welsh Government be approached by an individual from an external organisation, as long as this disclosure is made in good faith and follows the appropriate procedures then we will consider the information they provide. We will undertake to treat whistleblowers sensitively and we will try to maintain the whistleblowers anonymity if they wish, as far as can be reasonably and legally done.