



**Isle of Man  
Government**

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# Isle of Man Government Whistleblowing Policy and Procedure

Office of Human Resources  
Cabinet Office  
XXX 2021

## Foreword

At its sitting in February 2021, Tynwald resolved that:

1. The Manx legislation regarding protected disclosures should be amended to include a public interest test. The Department for Enterprise will consult on whether the Manx legislation should also be amended to include vicarious liability for employers and whether there need be good faith attaching to a disclosure.
2. The Isle of Man Government Whistleblowing policy and guidance should be re-written to encourage reporting of concerns, make it clear and accessible to the lay person and remove duplication.
3. The Isle of Man Government Whistleblowing policy training must be compulsory with a refresher session completed every five years.
4. That Tynwald is of the opinion that as an interim measure the Tynwald Auditor General shall oversee the management of public interest concerns raised by public sector employees and workers stationed within Departments, Boards and Offices of Government to ensure that any such concerns raised have been addressed; to review the reasons for any cessation of employment or engagement with a whistleblowing element, to ensure that the original public interest concerns have been addressed; and to report annually to Tynwald; and that the Tynwald Auditor General will be adequately resourced to do this.
5. That the Cabinet Office and the Department for Enterprise should jointly consult during 2021/22 on an all-encompassing statutory framework for Whistleblowing to cover:
  - a) encouraging the raising of public interest concerns,
  - b) the provision of monitoring and support,
  - c) protection for whistleblowers and penalties for non-compliance, and;
  - d) the possible creation of an Isle of Man Concerns at Work service to provide oversight for the whole Island;

and that as part of the development of a new statutory framework, the Government should consult staff sides.

Implementing these recommendations will involve the development and implementation of a new statutory framework for whistleblowing which will be progressed in the next 1 - 2 years.

In the interim, it is acknowledged that the existing Government policy on Whistleblowing requires improvement and that being so, it has been agreed to address the shortcomings identified by the Tynwald Select Committee on Whistleblowing by updating the existing policy. This updated policy takes effect from <Date> and will remain in operation pending the development of any new policy and procedure required to coincide with forthcoming legislative changes.

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# Whistleblowing Policy

## 1. Policy Statement

Isle of Man Government is committed to the highest possible standards of openness, integrity and accountability. In line with that commitment, employees are encouraged to raise concerns at work through the appropriate channels without fear of reprisal.

## 2. Policy Aims

This policy aims to:

- a) enable and encourage employees to identify and report concerns or wrongdoing;
- b) provide mechanisms for investigation, reporting and feedback on action taken;
- c) allow employees to escalate their concerns if they are dissatisfied with responses received;
- d) reassure employees that they will be protected from reprisals or victimisation for whistleblowing in good faith; and
- e) ensure appropriate support is provided to any employees who are the subject of a whistleblowing complaint.

## 3. Principles

The Isle of Man Government values its employees and seeks to support an environment promoting the three fundamental principles of corporate governance: openness, integrity and accountability. The responsibility for creating such an environment is shared by everyone and everyone has a role to play.

Employees are often the first people to witness any type of wrongdoing within Government. The information that employees may uncover could prevent wrongdoing, which may damage Government's reputation and/or performance, and could even save people from harm or death. Employees are therefore strongly encouraged to raise concerns which fall within the scope of this policy, rather than remain silent.

A whistleblower is best viewed as a witness who is putting the organisation on notice of the risk rather than as a complainant seeking to dictate to the organisation how it responds.

Whistleblowing is an aspect of good citizenship in that the employee is speaking up for and on behalf of people who are at risk but who may be unaware of it and so unable to do anything to protect themselves.

## 4. Scope

- a) This policy applies to all persons working in any Department, Board or Office (hereinafter referred to as "the Government"), whether full-time, part-time, temporary, casual, agency worker, volunteer or consultant<sup>1</sup>.

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<sup>1</sup> This includes former employees

- b) The policy applies to all of Government's activities as well as to all contractors and suppliers to Government of goods and/or services. The Clerk of Tynwald's Office is not part of the Government, but has agreed that this policy will be applied in that Office as if it were. References to the Government should therefore be taken to be, in so far as the Clerk of Tynwald's Office is concerned, the Tynwald Management Committee.

## **5. Government's Expectation and Commitment to Action**

The Government requires that all employees and those with whom it deals:

- a) act honestly and with integrity at all times;
- b) safeguard the Government's resources and good reputation;
- c) comply with the spirit, as well as the letter, of the law and regulations of all jurisdictions in which the Government operates, in respect of the lawful and responsible conduct of activities; and
- d) adhere to the requirements of this policy and the procedure contained at **Appendix 1**.

The Government commits to:

- a) ensuring all employees are aware of and trained in the requirements of this policy;
- b) investigating instances of alleged wrongdoing and assisting police and other appropriate authorities in any subsequent action;
- c) taking action against any employees involved in wrongdoing;
- d) ensuring that employees who blow the whistle in good faith are not victimised and that any instances of victimisation are taken seriously and managed accordingly;
- e) taking all reasonable steps to maintain the confidentiality of the whistleblower (where requested), unless required by law to break confidentiality or where it is not practical to do so (see Paragraph 10 below);
- f) treating all protected disclosures consistently and fairly; and
- g) ensuring that, where possible, any opportunities to improve practices and outcomes in future are taken.

## **6. Statutory Rights and Obligations**

- a) Nothing in this policy overrides statutory rights, in particular, the provisions of Part IV of the [Employment Act 2006](#) which affords protection against detriment and dismissal to an employee who makes a protected disclosure.
- b) For any disclosure to qualify for statutory protection it must be made to those persons or bodies prescribed either in the Act or included within the [Public Interest Disclosure \(Prescribed Persons\) Order 2021](#), as appropriate. ('Prescribed Persons' are certain external bodies to which matters may properly be reported.)
- c) All procedures arising from this policy will be subject to the provisions of the [Data Protection Act 2018](#).

- d) Disclosure of information by an employee is not a qualifying disclosure if in making it he or she commits an offence (e.g. if the disclosure is prohibited under official secrets legislation).
- e) This policy is not a full or authoritative statement of the law, but sets out the policy of the Government in respect of Whistleblowing, which if followed, is likely to ensure compliance with the Employment Act 2006.

## **7. Protected Disclosures**

Issues which can be raised under this policy and for which statutory protection exists, are one or more of the following matters which an employee reasonably believes is either happening now, took place in the past, or is likely to happen in the future:

- a) a criminal offence;
- b) the breach of a legal obligation;
- c) a miscarriage of justice;
- d) a danger to the health or safety of any individual;
- e) damage to the environment; or
- f) deliberate covering up of information tending to show any of the above five matters.

In making a disclosure an employee must have reasonable belief that the information disclosed tends to show one or more of the offences or breaches listed above ('a relevant failure'). The belief need not be correct - it might be discovered subsequently that the employee was in fact wrong - but the employee must show that he or she held the belief, and that it was a reasonable belief in the circumstances at the time of disclosure.

However, to qualify as protected, a disclosure must have sufficient factual content to be capable of tending to show one or more of the matters listed at (a) to (f) above - in other words, the more specific, factual information provided in a disclosure, the better.

## **8. Examples of protected disclosures**

The following list of examples describes issues which may be reported in accordance with this policy:

- a) fraud;
- b) financial mismanagement or corruption;
- c) physical or emotional abuse of prisoners, children or the elderly in care;
- d) health and safety issues concerning the workplace that puts the safety of workers or visitors at risk;
- e) medical negligence in a health care establishment;
- f) breaches of legislation, e.g. Health and Safety, Data Protection Act;
- g) damage to the environment e.g. dumping toxic material;
- h) a breach of the Government Financial Regulations;
- i) payments in exchange for awarding contracts and/or offering, taking or soliciting bribes;
- j) Concealment of any of the above.

## **9. Protection against detriment and dismissal**

The Employment Act protects employees and workers from detriment for making or proposing to make a protected disclosure. Detriment may take a number of forms, including denial of promotion, being disciplined, being allocated unpopular duties, receiving a poor appraisal, being relocated or receiving a bad reference (or not receiving a reference at all).

Where the detriment in question does not involve termination of the contract both employees and workers can bring a complaint under Part V of the Employment Act 2006 ('detriment').

Where an employee is dismissed for making a protected disclosure he or she may make a claim for unfair dismissal under Part X of the Employment Act 2006. Where the reason for the dismissal (or, if more than one, the principal reason for dismissal) is that the employee made a protected disclosure the dismissal will be automatically unfair.

Where the contract of a worker who is not an employee is terminated for making a protected disclosure his or her recourse is to bring a complaint of detriment under Part V of the Employment Act 2006.

## **10. Exclusions**

Disclosures which do not fall within the definitions at paragraph 7 above will not be investigated in accordance with this policy. For such cases, alternative procedures exist including contractual disciplinary and grievance procedures and the Isle of Man Government Fairness at Work Policy. For further information please see Part 4 of the Whistleblowing Procedure below.

## **11. Confidentiality**

It can be both awkward and embarrassing for employees to raise concerns, particularly if these might have an impact on colleagues, managers or the Government itself. As a result, whistleblowers may often seek assurances of confidentiality. However, this may prevent the proper investigation of concerns or impede any subsequent action against employees who are the subject of the disclosure.

The Government is committed to ensuring that whistleblowing will be handled in a sensitive and confidential manner and that reprisals will not be tolerated. Wherever possible, and where requested, the identity of a whistleblower will be kept confidential for as long as they so wish or until such time as there is an overriding reason why identity should be disclosed.

Action taken as a result of a disclosure may lead to the identity of a whistleblower being revealed, either by inference or as required by the demands of legal or disciplinary proceedings or in accordance with the Data Protection Act 2018 (such as via a data subject access request). Therefore, Government is unable to give a guarantee of confidentiality of identity.

## **12. Anonymity**

The raising of concerns anonymously is discouraged. Concerns expressed anonymously are much more difficult to investigate as it is impossible to seek clarification or additional information. Protection against reprisals offered under this policy depends upon the organisation knowing the identity of the whistleblower.

It may therefore not be possible to progress a concern that has been raised anonymously. Anonymous allegations may be treated as a tip-off, and may be followed up via a routine audit.

## **13. Privacy Notice**

The Office of Human Resources (OHR) and relevant Department, Board or Office Privacy Notices describe how personal information about an employee is collected and used during and after their working relationship within the Isle of Man Government and what legal basis there is for gathering and retaining that information in accordance with the Data Protection Act 2018 including the General Data Protection Regulation. For further details about the information collected and retention periods, please refer to the [Office of Human Resources' Privacy Notice](#) and the relevant Department, Board or Office's Privacy Notice which are incorporated in to this document by reference.

## Appendix 1 - Whistleblowing Procedure

### 1. PART ONE: Making a Disclosure

#### 1.1 Principles

The Government recognises that the decision to report a concern is not an easy one to make, not least because of the fear of reprisal from those being reported or other colleagues. The Government will not tolerate harassment or victimisation from members of staff and will take appropriate action, including the application of disciplinary procedures, to protect you where you make a disclosure in good faith. It will be the responsibility of the Designated Manager<sup>2</sup> to take steps to ensure that appropriate action is taken against any person who places you, your colleagues or your family under any duress arising from any disclosure you may make in good faith.

#### 1.2 Describing your concerns

A concern which can be reported under the whistleblowing policy must relate to a criminal offence, a failure to comply with legal obligations, a miscarriage of justice, health and safety failures, environmental damage or concealment of information about any of these matters.

If you are unsure whether your concerns relate to the matters described above, you should use your judgment as to whether to take action under this policy and note that if you do it may not be regarded as a protected disclosure. If in any doubt, you can seek advice a designated whistleblowing officer (Annex D). Should your report relate to issues outside its scope, you will be advised accordingly.

Concerns are best raised in writing, though they can also be expressed verbally e.g. by telephone. As much information as possible should be given, including:

- a) the background to the concern;
- b) name/s of individual/s involved;
- c) details of dates and places where the events giving rise to concern occurred or is likely to occur; and
- d) the reasons why you are particularly concerned/making the disclosure.

Although you are not expected to prove the truth of an allegation, you will need to demonstrate to the person contacted that there are sufficient grounds for your concern. Wherever possible provide information (facts) in your disclosure; e.g. 'the wards have not been cleaned for the past two weeks and sharps have been left lying around' rather than a generalised allegation such as, 'the hospital is not complying with health and safety requirements.'

You may discuss your concern with a work colleague, who may also have knowledge of the matters you wish to raise, and you may consider making a joint disclosure. The earlier you express your concerns, the easier it will be to take action and to minimise any negative impact on the Government.

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<sup>2</sup> Person to whom the disclosure is made

## 1.4 Reporting your concerns

You are encouraged in the first instance to raise your concern with your line manager. If, however, you do not feel confident using this avenue or wish the concern to be subject to the formal procedure, you should report your concerns to one of the following Designated Managers:

- a) Designated Whistleblowing Officer within your Department, Division, Board or Office (See Annex D);
- b) Your Chief Executive/Chief Officer;
- c) Audit Advisory Division Confidential Reporting (Tel. 686546) or by email to [enquiries.audit@gov.im](mailto:enquiries.audit@gov.im);
- d) The Public Services Commission (Tel. 685725) or email to [XXX@gov.im](mailto:XXX@gov.im); or
- e) A prescribed person: [Public Interest Disclosure \(Prescribed Persons\) Order 2021](#).

If the concern involves your Designated Whistleblowing Officer, the matter should be reported to the Chief Executive/Chief Officer who will appoint an alternative Designated Whistleblowing Officer. If the concern involves the Chief Executive/Chief Officer, then you should report your concerns to any of the persons described at parts (c) to (e) above, as appropriate. You may also refer your concerns to these persons if you would prefer to raise the matters with someone outside your Department, Board or Office

You are strongly encouraged to provide your name when you make a disclosure. If requested, every effort will be made to protect your identity, subject to Paragraph 10 of the Policy above.

You are discouraged from approaching the media or politicians, as doing so may hamper an objective investigation if the matter extends into the public domain.

If your concerns are made in good faith but cannot be confirmed by an investigation, no action will be taken against you. However, if you raise a matter you know to be false and/or where you commit or attempt to commit a criminal offence contrary to the Employment Act 2006<sup>3</sup>, the Official Secrets Act 1911 (an Act of Parliament) or the Bribery Act 2013, appropriate action may be taken against you.

If you are considering making a disclosure there are methods of protection available in certain circumstances which would give you protection from your identity being made known. For example, if information gave rise to a prosecution, the usual approach taken by the Isle of Man Constabulary in practice, is to make an application to the Court for a Public Interest Immunity Order ("a PII Order"). A PII Order allows the Isle of Man Constabulary to refuse to disclose, in the criminal proceedings, the identity of the informant in a public court. In civil proceedings, injunctions or civil restraints can be used to ensure that protection is afforded where required. All such protection is in the ultimate discretion of the Court.

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<sup>3</sup> Employment Act 2006 - Protected Disclosures Part IV

## **2. PART TWO: How Government will respond to a disclosure**

### **2.1 Informal Resolution**

Where concerns are raised with a Line or Designated Manager, whether in writing or otherwise, it may be possible for them to be resolved informally through discussion and clarification of the points raised. Informal resolution may take place via email, telephone or face to face discussions.

### **2.2 Formal Disclosure**

At all stages of the formal procedure you have the right, if you so wish, to be accompanied by a trade union/professional association representative or a work colleague.

If an informal resolution is not sought or is not achieved, you should make a formal disclosure in writing to a Designated Manager (see Para 1.4 above). An initial confidential discussion will be arranged between you and the Designated Manager (which hereinafter includes "or other manager with delegated authority") to discuss the matter as soon as practicable. This may be in person, by videoconferencing or by telephone. At this stage you will be asked if you are content for your identity to be disclosed during the investigation and if not, you will be advised of the confidentiality provisions of the policy (Para 10).

You will be reassured about protection from possible reprisals or victimisation and you will also be asked whether or not you wish to make a formal statement. In either case, a brief summary of the interview will be recorded, which will be agreed by both you and the Designated Manager and a copy given to you for your records.

### **2.3 Investigation**

All future internal proceedings will be of a confidential nature. In order to protect individuals and those accused of misdeeds or possible malpractice, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required, this will be taken before any substantive investigation is conducted.

The action taken will depend upon the nature of the concern. Where appropriate, the matters raised may:

- a) be investigated internally by management or the Treasury Audit Advisory Division,
- b) be referred for specialist advice (e.g. to the Attorney General's Office);
- c) be referred to the Police;
- d) be referred to the Director, Audit Advisory Division;
- e) form the subject of an independent investigation;
- f) be subject to any combination of the above.

In order to protect individuals and the Government, initial enquiries will be made by the Designated Manager to decide whether a whistleblowing investigation is appropriate and, if so, what form it should take.

Concerns or allegations that fall outside the scope of protected disclosures but within the scope of specific procedures (e.g. Fairness at Work or disciplinary issues) will normally be referred for consideration under those procedures.

If an investigation leads to criminal or civil proceedings, any information or evidence gathered as part of the investigation, even if it is not subsequently used in the proceedings, may be disclosed as part of the legal obligations of the parties, unless protection is available due to public interest, or other such protection by way of a restraint or injunction which could be granted by the Court.

## **2.4 Progress Reports and Confidentiality**

The Designated Manager will write to you within 10 working days of the initial discussion to:

- a) formally acknowledge that the disclosure has been received;
- b) indicate how the matter will be dealt with;
- c) advise you prior to any initial enquiries being made;
- d) advise whether further investigations are likely to take place and if not, why not; and
- e) give an estimate of how long it will take to give you a final response, and a commitment to provide progress updates on at least a monthly basis.

The amount of contact between the Designated Manager and yourself will depend on the nature of the matter raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information will be sought from you.

If you make a disclosure in confidence under this policy and ask for your identity to be protected, efforts will be made to do so. You must appreciate though that due to the nature of the investigation process it may be vital to proceedings that you make a statement to be included in evidence and confidentiality of your identity cannot be guaranteed (See Para 10 of the Policy). If your evidence is required for a disciplinary hearing or police investigation, then you will be advised and supported accordingly. Where possible your witness statements may be anonymised.

The Designated Manager will take steps to help you, as much as possible, to minimise any difficulties which you may experience as a result of raising a concern. For example, if you are required to give evidence in criminal or disciplinary proceedings, the Designated Manager will arrange for you to receive advice about such procedures.

## **2.5 Outcome of Formal Procedure**

Where an investigation has taken place, the Designated Manager will arrange for an investigation report that:

- a) outlines the complaint;
- b) details the investigation process;
- c) gives the outcome of the investigation; and
- d) details recommendations where appropriate.

The report will be referred to Chief Executive/Chief Officer of the relevant Department, Board or Office (or other appropriate person such as the Chief Secretary or Public Services Commission) to consider and determine what further action is required. Should the outcome result in a disciplinary allegation, the report will be referred to any subsequent and separate disciplinary investigation.

Whilst you would not normally be given a copy of the full investigation report, the Government does respect your input and will ensure that you are kept as fully informed as possible, so that you can be satisfied that the matter is being properly addressed. Therefore, subject to any legal or other constraints, you will be informed about the investigation and its outcome. However, should the outcome lead to disciplinary proceedings you will not be informed about a disciplinary process in respect of another employee.

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### **3. PART THREE: The Role of the Designated Manager**

#### **3.1 Introduction**

The Designated Manager can be any of the persons described in Part 1.4 above. Designated Managers must familiarise themselves with all parts of the Whistleblowing Policy and in particular, the requirements set out in Part Two above.

The Designated Manager has overall responsibility for the management of a disclosure and in particular, must:

- a) ensure the whistleblower is kept suitably informed throughout the process;
- b) ensure that employees subject to a whistleblowing complaint are made aware of the nature of complaint against them and kept suitably informed throughout the process (unless otherwise directed by the Police, HM Attorney General's Chambers or Audit Advisory Division in cases where a criminal investigation may be underway).

#### **3.2 Considering a disclosure**

When a concern is raised through the formal procedure it is important that the Designated Manager listens carefully and avoids pre-judging the issue. The first issue to be decided is whether it should be treated as a whistleblowing concern, which meets the requirement of the Policy (Para 7 refers).

A Designated Manager should assess:

- a) how serious and urgent the risk is (very serious and urgent risks may require immediate referral to the Police, HM Attorney General's Chambers, Audit Advisory Division or the appropriate regulatory authority);
- b) whether the concern is best dealt with under the Whistleblowing policy or some other procedure (e.g. Fairness at Work, or as a tip-off);
- c) whether the assistance of or referral to senior managers, a specialist function or relevant statutory body will be desirable or necessary.

A whistleblower is not required to prove their concerns for them to be acted upon but the more specific, factual information provided in a disclosure, the better.

If the information can be treated as a tip-off and simply followed up during a routine audit, or if it could just as easily have come from a customer complaint, then there will often be practical advantages for all concerned if the organisation addresses the matter on that basis. If this appears a realistic way forward, the employee should be informed accordingly.

In considering the disclosure the Designated Manager should establish:

- a) if the employee is anxious about reprisals;
- b) when the concern first arose and, where relevant, what is prompting the decision to speak up now?
- c) whether the information is first hand or hearsay?

- d) whether the employee has raised the concern with their line manager? and
  - if not, why? and
  - if so, with what effect?
- e) whether confidentiality is sought and if so, clarify the policy (Para 10) on protecting the identity of a whistleblower;
- f) whether and when the employee wants feedback; and
- g) if there is anything else relevant the employee should mention.

These issues are indicative of the approach that may be taken and should not be seen as a definitive list.

### **3.3 Acting on a disclosure**

The Designated Manager notified of a concern:

- a) has a responsibility to ensure that concerns raised are taken seriously;
- b) should, where appropriate, investigate properly and make an objective assessment of the concern;
- c) has a responsibility to ensure that the action necessary to resolve the concern is taken; and
- d) should consider any requirement to refer certain types of concerns to a relevant external body (such as a regulatory authority, the Police or a professional body such as the General Medical Council).

The Designated Manager should write to the employee in the manner described at para 2.4 above, summarising the concern, noting whether it was raised openly or confidentially, and stating what steps will be taken. This correspondence should state when feedback can be expected. It should also ask the employee to make contact if they have any questions or further information relating to the concern.

### **3.4 Considerations**

Where the issue is sensitive, the number of people involved in addressing any concern should be kept to a minimum and, where the implications are potentially serious or far-reaching, the independence and oversight of the investigation should also be considered. It is also important that, where a conditional undertaking to preserve confidentiality has been given (as per Policy, Para 10) it should be respected.

Where the concern needs to be referred on to a more specialist area such as the Audit Advisory Division or health and safety, this should be done without undue delay. Additionally the employee should be asked whether they want to be in direct contact with the function themselves, or would rather any communication was done through the Designated Manager.

Where specific enquiries need to be made in the area where the whistleblower works, the whistleblower should be forewarned so they are prepared to answer questions along with everyone else.

### **3.5 Reassurance**

Where the member of staff is concerned that they might suffer reprisals, they should be encouraged to come back to the Designated Manager at the earliest opportunity. Sometimes a reassuring word is all that is needed to calm an overly anxious member of staff, but at other times it may be necessary to liaise with line management or the Chief Executive/Chief Officer on whether some other action is appropriate or necessary.

Employees should also be reminded of the availability of the Isle of Man Government Staff Welfare Service (Tel: 687027; email: [staffwelfare@gov.im](mailto:staffwelfare@gov.im))

### **3.6 Record Keeping**

Designated Managers must record a summary of the concern where an employee has formally invoked the Whistleblowing policy.

Such records should include:

- a) the date, the Department/Board of Office, the risk(s) involved and whether they are ongoing;
- b) a summary of the concern and its background, the response proposed (including whether it is to be referred on or up) and any action taken;
- c) whether confidentiality was requested/explained/promised;
- d) whether the concern was raised with line management;
- e) whether feedback was given and any response from the employee;
- f) whether the employee has ceased to be employed following invoking the policy and the reasons for their termination;
- g) whether the concern would meet the test of in the public interest, and
- h) any general observations.

The Designated Manager should ensure that the compilation and maintenance of these records complies with its data protection procedures.

### **3.7 Report to the Public Services Commission**

Designated Managers should ensure that the information at Para 3.6 above is reported annually (for the year to 31 March) to the Chief Executive/Chief Officer of the Department, Board or Office concerned for onward transmission in anonymised form to the Public Services Commission by 31 May each year.

The Public Services Commission is authorised by the Council of Ministers to develop and review corporate HR policies and procedures and monitor their consistent application across Government.

The Public Services Commission will provide a summary of whistleblowing cases in its Annual Report to Tynwald and provide advice and assistance to the Office of the Tynwald Auditor General to support its role overseeing the management of public interest concerns raised by public sector employees.

#### 4. PART FOUR: Relationship with other Procedures

The Whistleblowing Policy & Procedure only covers concerns that fall within the scope of protected disclosures (Part IV of the [Employment Act 2006](#)). Other concerns should be progressed under procedures such as:

**Corporate Complaints Procedures** for public use: Departments, Boards and Offices have their own individual Complaints Procedures.

**Grievance Procedures:** A grievance or private complaint is a dispute about the member of staff's own employment position and has no additional public interest dimension. There are separate procedures in place for each staff group to enable individuals to lodge a grievance relating to their own employment.

**Bullying, harassment and discrimination:** Where an employee is concerned about the way they are being treated, they may raise the matter under the [Fairness at Work Policy](#), which provides details of the procedure to be followed. Where an employee is concerned about the way that a colleague is being treated the individual may be encouraged to raise the matter through the Fairness at Work Policy and/or to seek help or advice from line management, a union, a Fairness at Work Contact Officer or Staff Welfare.

**Misconduct:** Where an employee believes another employee has committed misconduct in the course of his or her duties, and it relates to matters to which a protected disclosure may apply, they may report a concern under this policy and procedure. Otherwise they must report the matter to an appropriate person within their Department, Board or Office for it to be considered under applicable disciplinary procedures.

The Anti-Bribery Procedure confirms that it is the duty of public officials to report bribery both to a Designated Whistleblowing Officer **and** to a Constable in the IOM Constabulary Financial Crime Unit.<sup>4</sup>

Financial irregularities must be reported to the Director, Audit Advisory Division, Treasury<sup>5</sup> or to a [Fraud Liaison Officer](#).

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<sup>4</sup> Anti-Bribery Policy 4.1 'Statutory Obligations: Duty of certain public officials to report bribery'

<sup>5</sup> [Financial Regulations](#) FDA4

## **Annex A - Sources of Advice and Information**

If you are unsure who to report your concerns to, please call the Office of Human Resources on 685000 or email [irp.ohr@gov.im](mailto:irp.ohr@gov.im) for the contact details of a Designated Whistleblowing Officer in your area.

You may also obtain advice from the Treasury Audit Advisory Division Confidential Reporting telephone number 686546 or email [enquiries.audit@gov.im](mailto:enquiries.audit@gov.im). Your query will be dealt with on a confidential basis.

You can also seek advice from any of the Designated Whistleblowing Officers listed in **Annex D**.

If you require further advice you may wish to contact your trade union/staff association office.

The Manx Industrial Relations Service (MIRS) is an independent and impartial service which is available free of charge to any individual or organisation. MIRS can be contacted by telephone on 672942 or by email at [IRO@Mirs.org.im](mailto:IRO@Mirs.org.im). Any discussions held with MIRS are confidential.

Alternatively you may seek advice from the UK independent charitable body, "Protect". This organisation operates a helpline and can be contacted by telephone on 020 3117 2520 or by email at [Whistle@protect-advice.org.uk](mailto:Whistle@protect-advice.org.uk). Protect will give free, independent, confidential advice at any stage of the process, but may not be familiar with Isle of Man legislation or our Governmental system. Information given to a helpline will not constitute legal notification to the organisation.

## **Annex B - Definitions and Glossary**

### **Allegations in bad faith**

In the context of this policy an allegation is in bad faith if it is made by an individual who is not acting in good faith with the deliberate intention of causing damage, harm, distress, embarrassment or annoyance to another; or if the whistleblower knows at the time they make the allegation that it is false.

### **Anonymity**

Where the member of staff does not identify him or herself at any stage to anyone.

### **Bribery**

Bribery is an inducement or reward offered, promised or provided to gain personal, commercial, regulatory or contractual advantage.

### **Confidentiality**

Where an employee's name is known, but will not be disclosed without their consent, unless required by law for example where evidence or other information is disclosed in civil or criminal proceedings where efforts will be made to protect the member of staff, and/or appropriate application made to prevent disclosure.

### **Designated Whistleblowing Officer**

Senior officer whom the organisation designates to receive whistleblowing concerns. The list of Designated Officers is at Appendix E or may be accessed via the Isle of Man Government Intranet.

### **Discrimination**

Where an individual or group is treated less favourably than others.

### **Employee**

Someone who works in or for the organisation, whether full-time, part-time, temporary, casual, agency worker, volunteer or consultant.

### **Fraud**

Fraud is a criminal activity. It is an act of deception intended for personal gain or to cause a loss to another party. The general criminal offence of fraud can include:

- deception whereby someone knowingly makes false representation; or
- failure to disclose information; or
- abuse of a position.

### **Fraud Liaison Officer**

Fraud Liaison Officers are appointed by Departments, Boards and Offices to ensure that their areas comply with Financial Regulations and to inform the Audit Advisory Division of any issues. They act as a single point of contact for each area in respect of all matters relating to potential fraud or corruption. The list of [Fraud Liaison Officers](#) may be accessed via the Isle of Man Government Intranet under the header of 'Anti-fraud, Bribery and Corruption.'

**Good Faith**

Good faith is a term that encompasses a sincere, honest belief or intention without malice or the desire to injure the rights of others.

**Hearsay**

Testimony based on what an individual has heard from another person rather than on direct personal knowledge.

**Malpractice**

Malpractice refers to negligence or misconduct by a professional person, such as a lawyer, doctor, dentist, or accountant.

**Open Whistleblowing**

Where the member of staff openly raises the whistleblowing concern and does not request confidentiality.

**Public Interest Immunity (PII) Order**

A PII Order allows the Isle of Man Constabulary to refuse to disclose, in the criminal proceedings, the identity of the informant in a public court.

**Protected Disclosure**

A protected disclosure is a disclosure of information which would qualify a member of staff for protection; such disclosures tend to be allegations of serious wrongdoing and are defined in Part IV of the [Employment Act 2006](#).

**Tip-off**

Indication of an otherwise unknown fact that can then be evaluated or corroborated by independent evidence.

**Whistleblowing**

Whistleblowing is the popular term used when someone who works in or for an organisation (referred to in this document as an employee) raises a concern about a possible fraud, crime, danger or other serious risk that could threaten customers, colleagues, the public, the environment or the organisation's own reputation.

**Wrongdoing / Serious Wrongdoing**

The act or an instance of doing something immoral, unethical or illegal; serious wrongdoing could include:

- Unlawful, corrupt or irregular use of public money or resources
- Conduct that poses a serious risk to public health, safety, the environment or the maintenance of the law
- Any criminal offence

## Annex C - Legislation Relevant to Protected Disclosures

<a href="#">Bribery Act 2013</a>	<p>There is a duty on persons who exercise a function or perform services on behalf of a public body to report bribery or attempted bribery. The legislation applies to all employees at all levels of Government.</p> <p>The terms of this Act overrule confidentiality terms in contracts or agreements of employment that seek to prevent workers from making protected disclosures.</p>
<a href="#">Council of Ministers Act 1990</a>	<p>Proceedings of Council of Ministers shall be confidential unless leave is given by Chief Minister to divulge information regarding anything done or said in Council.</p>
<a href="#">Data Protection Act 2018</a>	<p>Confidentiality:</p> <ul style="list-style-type: none"> <li>• Information is lawfully disclosed if it is made public for the purposes of civil or criminal proceedings, is in the public interest and is necessary for the discharge of functions under the Act.</li> </ul> <p>Crime and Taxation:</p> <ul style="list-style-type: none"> <li>• You can disclose or process personal data processed for the prevention and detection of crime.</li> </ul>
<a href="#">Employment Act 2006</a>  <a href="#">Public Interest Disclosure (Prescribed Persons) Order 2021.</a>	<p>A Protected Disclosure is:</p> <ul style="list-style-type: none"> <li>• One made in the reasonable belief by the worker that a criminal offence has been or will be committed, in good faith to an employer or prescribed person pursuant to sections 51-56 of the Employment Act 2006 or</li> <li>• For example, one made in accordance with the Bribery Act 2013 (section 13(1) and (2))</li> </ul>
<a href="#">Financial Regulations</a>	<p>Financial Direction A3 – ‘The Acceptance of Gifts and Rewards’  Financial Practice Note A.02 – ‘Gifts and Rewards’</p> <ul style="list-style-type: none"> <li>• Only low value gifts or conventional hospitality may be accepted.</li> </ul> <p>Financial Direction A4 – Financial Irregularities</p> <ul style="list-style-type: none"> <li>• Accounting Officers are to notify the Director of Audit Advisory Division, Attorney General and police if there is suspicion of financial irregularity involving public money, irrespective of whether it is clear that a criminal offence has taken place or not.</li> </ul>
<a href="#">Health and Safety at Work Act (UK) 1974</a>	<p>Isle of Man Health and Safety at Work Act 1977 makes provision for application of the UK Act in the Isle of Man</p> <p>Restrictions on disclosure of information do not apply where the disclosure is made to an enforcing authority, an authorised officer or a police constable authorised to receive it.</p> <p>A police constable to whom the information is disclosed may use it in relation to public health, public safety or the safety of the State.</p>
<a href="#">Income Tax Act 1970</a>	<p>You do not have to keep information confidential:</p> <ul style="list-style-type: none"> <li>• If the disclosure is required or authorised by any statutory provision (including a provision in this Act);</li> <li>• If the disclosure is made in the prescribed manner under section 13 of the Bribery Act 2013.</li> </ul>
<a href="#">Official Secrets Act 1911</a>	<p>Specifics of the offences under this Act, including but not limited to spying and harbouring spies, are included in this Act. The Whistleblowing policy is not a full or authoritative statement of the law, but sets out the policy of the Government in respect of Whistleblowing, which if followed is likely to ensure compliance with the Employment Act 2006.</p>

## Annex D - Designated Whistleblowing Officers

The most up to date list of Designated Whistleblowing Officers across Government Departments may be accessed via the 'Government' tab on the [Government Intranet](#). The list at the date of this policy is shown below.

If you are unsure of the name of your Designated Whistleblowing Officer or wish to contact the Audit Advisory Division direct, please telephone the office of the Director of the Audit Advisory Division, Treasury on 686552.

### **Attorney General's Chambers**

Attorney General  
Solicitor General  
Chief Operating Officer

### **Cabinet Office**

Director of Change and Reform

### **Clerk of Tynwald's Office**

Senechal

### **Communications Commission**

Regulatory Assistant

### **Department for Enterprise**

Deputy Chief Executive  
Director of Public Services Central Registry

### **Department of Education, Sport and Culture**

Head of Finance  
Legal and Administration Manager  
Director of Inclusion & Safeguarding

### **Department of Environment, Food & Agriculture**

Legislation and Research Officer  
Secretary to the Board (OFT)

### **Department of Health and Social Care**

Interim Deputy CEO (Governance)

### **Department of Home Affairs**

Director of Administration and Legislation  
Director of Finance and Research

### **Department of Infrastructure**

Director for Strategy Policy and Performance

### **Financial Intelligence Unit**

Operations Manager

### **Financial Services Authority**

Director, Operations  
Director, Policy and Authorisations

### **Gambling Supervision Commission**

Director, Licensing & Compliance

### **General Registry**

Chief Registrar  
Financial Management Adviser  
Director of Courts and Tribunal Services

### **Isle of Man Post**

Venerable Brian Partington, Board Member  
Chief Executive  
Human Resources Manager

### **Manx Care**

Board Secretary, Manx Care

### **Manx Industrial Relations Service**

Industrial Relations Officer  
Deputy Industrial Relations Officer

### **Manx National Heritage**

Head of Corporate Services

### **Manx Utilities Authority**

Risk and Compliance Manager

### **Public Sector Pensions Authority**

Deputy Chief Executive Officer

### **Road Transport Licensing Committee**

Secretary to the Road Transport Licensing Committee

### **Treasury**

Financial Controller  
Director, Audit Advisory Division  
Deputy Assessors of Income Tax (2)  
Deputy Collector of Customs and Excise  
Director of Social Security

**Updated: April 2021**