

**Isle of Man Government  
Whistleblowing  
(Confidential Reporting)  
Policy and Guidance**

Office of Human Resources, Cabinet Office  
September 2016

# **Introduction by the Chief Minister Hon Allan Bell MHK**

The Isle of Man Government values its people and is committed to supporting and promoting an environment of openness, integrity and accountability. The responsibility for creating such an environment is shared by everyone and everyone has a role to play.

Within any organisation it is important to provide safeguards for staff. As a channel for members of staff to speak up when someone is acting recklessly, flouting Government policy, breaching our code of conduct or potentially breaking the law, a robust Whistleblowing policy is essential. A climate of open communication, supported by a clear procedure for dealing with concerns, can help to reduce misconduct and ensure that any such concerns are dealt with expeditiously.

The Whistleblowing Policy is intended to encourage and enable you to raise serious concerns internally in the first instance without fear of reprisal.

This revised Policy, which has been endorsed by the Council of Ministers with the support of the Chief Officers Group, relates to all Isle of Man Government staff and comes into effect on 1 September 2016.

**Hon Allan Bell MHK  
Chief Minister  
August 2016**

# Executive Summary

## 1. Background

The Whistleblowing (Confidential Reporting) Policy was originally developed in 2007 when the Employment Act 2006 came into force. This legislation introduced the concept of 'Protected Disclosures' which provides for workers to be protected when making disclosures regarding serious wrongdoing on the part of work colleagues.

This Policy was reviewed in 2009 when a few minor amendments were made to the Policy. In December 2013 the Bribery Act 2013 came into force, precipitating the requirement for an Anti-Bribery Policy as well as a review of the Whistleblowing Policy.

## 2. Key Points of the Whistleblowing Policy

The Whistleblowing Policy seeks to promote a culture in which workers can raise concerns without fear of victimisation or recrimination, but in the knowledge that complaints shown to be malicious or vexatious will lead to disciplinary action. The Whistleblowing Policy makes it clear that any attempt to thwart the whistleblower by a fellow worker will be treated as serious misconduct.

## 3. Risk

Non-adherence to the requirements of either the Employment Act 2006 or the Bribery Act 2013 could potentially result in both financial loss and reputational damage to the Isle of Man Government.

Under the Employment Act 2006 the dismissal of an employee will be automatically unfair if the principal reason for their dismissal is that they have made a "protected disclosure". The Act also protects workers from being subjected to any detriment on the ground that they have made a "protected disclosure."

## 4. Responsibility and Procedure

The Whistleblowing Policy confirms that overall corporate responsibility for ensuring compliance lies with Accounting Officers, who are responsible for completing an annual return for submission to the Chief Secretary.

Employees are required to avoid activity that breaches this Policy which sets out a safe confidential procedure to follow to report any suspicious activity. Guidance is also offered to line managers who are often the first point of contact for employees raising such a concern.

A flowchart is included to illustrate the procedure when considering making a protected disclosure/blowing the whistle.

# Table of Contents

Executive Summary .....	3
Whistleblowing Policy .....	5
1. Policy Statement .....	5
2. Policy Aims .....	5
3. Principles .....	5
4. Scope .....	5
5. Government’s Expectation and Commitment to Action .....	6
6. Safeguards .....	6
7. Privacy Notice .....	6
8. Your Responsibility .....	7
9. Your Assurance .....	7
10. Confidentiality .....	7
11. Anonymous Allegations .....	8
13. Relationship with other Procedures .....	8
14. Responsible Officer .....	9
15. Statutory Rights .....	9
16. Statutory Obligations .....	9
17. Caveats – Misuse of the Policy .....	10
18. Consultation and Review .....	10
Appendix A .....	10
Guidance for Individuals .....	10
Appendix B .....	15
Guidance for Line Managers .....	15
Appendix C .....	17
Definitions and Glossary .....	17
Appendix D .....	20
Legislation Relevant to Protected Disclosures .....	20
Appendix D1 .....	21
Relevant Legislation, Regulations, Policies, Procedures, Codes and Guides....	21
Appendix E .....	22
Designated Officers .....	22
Appendix F Flowchart to illustrate the Whistleblowing Process .....	23

# 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 members of staff are encouraged to raise serious concerns regarding any aspect of Government's work through the appropriate channels without fear of reprisal.

## 2. Policy Aims

This policy aims to:

- i. provide a coherent and consistent framework to enable Government staff to understand and implement procedures to enable compliance with the law and regulations;
- ii. enable members of staff to identify what constitutes a serious concern or wrongdoing;
- iii. enable and encourage members of staff to effectively report a potential breach;
- iv. provide avenues for members of staff to raise concerns and receive feedback on any action taken;
- v. allow members of staff to take the matter further if they are dissatisfied with their line manager's response;
- vi. reassure members of staff that they will be protected from reprisals or victimisation for whistleblowing in good faith.

## 3. Principles

The Isle of Man Government values its people 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.

## 4. Scope

- i. This policy applies to all persons in the employment of any Statutory Board, Government Department or Office (all hereinafter referred to as "the Government"), whether full-time, part-time, temporary, casual, agency worker, volunteer or consultant.
- ii. 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**

- i. The Government requires that all members of staff 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.
- ii. The Government commits to:
  - a) setting out a clear Whistleblowing Policy and keeping it up to date;
  - b) making all members of staff aware of their responsibilities to adhere strictly to this policy at all times;
  - c) encouraging staff to be vigilant and to report any suspicions of wrongdoing, providing them with suitable channels of communication and ensuring sensitive information is treated appropriately;
  - d) providing information to all staff about how to report breaches and suspected breaches of this policy;
  - e) rigorously investigating instances of alleged wrongdoing and assisting police and other appropriate authorities in any resultant prosecution;
  - f) taking firm and vigorous action against any individuals involved in wrongdoing;
  - g) ensuring that staff members who blow the whistle in good faith are not victimised in line with the law and this policy.

## **6. Safeguards**

- i. It is the intention of this policy to make it clear that members of staff can speak out without fear of victimisation, discrimination or disadvantage.
- ii. Nothing within this policy document overrides the statutory rights of any member of staff.

## **7. 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.

## **8. Your Responsibility**

- i. The prevention, detection and reporting of wrongdoing are the responsibility of all those working for the organisation or under its control. All staff and members are required to avoid activity that breaches this policy.
- ii. You must:
  - a) ensure that you read, understand and comply with this policy;
  - b) raise concerns as soon as possible if you believe or suspect that a breach of this policy has occurred, or may occur in the future.
- iii. Whistleblowers are discouraged from approaching the media or politicians, as doing so may hamper an objective investigation if the matter extends into the public domain.
- iv. As well as the possibility of civil and criminal prosecution, staff and members that breach this policy will face disciplinary action, which could result in dismissal for gross misconduct.

## **9. Your Assurance**

- i. 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 Officer (See Appendix E) 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.
- ii. If your concerns cannot be confirmed by an investigation, no action will be taken against you, except where 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>1</sup>, the Official Secrets Act 1911 (an Act of Parliament) or the Bribery Act 2013.
- iii. It may assist members of staff who are considering their obligations in making a disclosure to know that there are methods of protection available in certain circumstances which would give the person making the disclosure protection from their 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; however those protections are available if required.

## **10. Confidentiality**

- i. While openness is the ideal, in practice members of staff may feel anxious about identifying themselves at the outset. This policy makes provision in

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<sup>1</sup> Employment Act 2006 - Protected Disclosures Part IV

such instances for confidentiality to be maintained, and for your name not to be revealed without your consent. It may be vital to proceedings that you make a statement to be included in evidence. Where possible your witness statement may be anonymised.

- ii. Where confidentiality is promised it may be that others will try to deduce your identity, even though your name will not be disclosed. For this reason 'open whistleblowing' (where those involved know what the issue is and who has raised it) is encouraged as the best approach. This openness makes it easier for the organisation to assess the issues, plan how to investigate the matter, get more information, understand any hidden agendas, avoid witch hunts and minimise the risk of mistrust or paranoia developing.

## **11. Anonymous Allegations**

- i. This policy strongly encourages you to put your name to your allegation. Protection against reprisals offered under this policy depends upon the organisation knowing your identity. Concerns expressed anonymously are much more difficult to investigate as it is impossible to seek clarification or additional information.
- ii. 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.

## **12. Untrue Allegations**

- i. If you make an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against you. If you have requested confidentiality, this will be maintained following the outcome of the investigation if you so request.
- ii. If the investigation indicates that the disclosure made by you appears to have been vexatious, malicious or for personal gain, this is likely to result in appropriate action being taken against you under the disciplinary process.

## **13. Relationship with other Procedures**

- i. The Anti-Bribery Procedure confirms that it is the duty of public officials to report bribery both to the Designated Officer as per the Whistleblowing procedure **and** to a Constable in the IOM Constabulary Financial Crime Unit.<sup>2</sup>
- ii. Financial irregularities must be reported to the Director, Audit Advisory Division, Treasury<sup>3</sup> or to a Fraud Liaison Officer.

The Whistleblowing procedure is intended to cover concerns that fall outside the scope of other procedures, such as:

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

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<sup>2</sup> Anti-Bribery Policy 4.1 'Statutory Obligations: Duty of certain public officials to report bribery'

<sup>3</sup> [Financial Regulations](#) FDA4



- iv. 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.
- v. Bullying, harassment and discrimination: Where a member of staff 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 a member of staff 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 a union, a Contact Officer or Staff Welfare.

#### **14. Responsible Officer**

- i. Each Accounting Officer has overall responsibility for the maintenance and operation of this policy within their respective organisations and will report annually to the Chief Secretary on the incidence of cases reported, and their status or outcome in a form that does not breach the confidentiality agreement covered by this policy.
- ii. As a matter of good governance, the Audit Advisory Division of the Treasury will undertake random checks on the incidence of cases reported and the outcome.

#### **15. Statutory Rights**

- i. This policy does not affect your statutory rights. Your attention is drawn to the provisions of Part IV of the [Employment Act 2006](#) which affords statutory protection to an employee who makes a protected disclosure.
- ii. For any disclosure to qualify for statutory protection it must be made to those persons or bodies prescribed either in the Act or included on the list in the [Public Interest Disclosure \(Prescribed Persons\) Order 2016](#), as appropriate. ('Prescribed Persons' are certain external bodies to which matters may properly be reported.)
- iii. Your attention is drawn to the Department for Enterprise Guide entitled [A Brief Guide to Whistleblowing December 2016](#). All procedures arising from this policy will be subject to the provisions of the [Data Protection Act 2018](#).
- iv. For further information on legislation relevant to protected disclosures see Appendix D.

#### **16. Statutory Obligations**

- i. Legislation does not offer you general protection in all circumstances. For example you will not be protected if you **commit** an offence by making the disclosure in breach of any obligations you may have under the [Official Secrets Act 1911](#) (an Act of Parliament which applies on the Isle of Man). Specifics of the offences under the Official Secrets Act, including but not limited to spying and harbouring spies, are included in that Act. 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.

- ii. For further information with regard to your responsibility to make a disclosure and the circumstances under which you would be protected under legislation see [A Brief Guide to Whistleblowing December 2016](#) issued by the Department for Enterprise and also a table listing legislation relevant to protected disclosures in [Appendix D](#).

## **17. Caveats – Misuse of the Policy**

This policy:

- i. does not guarantee protection for any member of staff who owns up to any substantive misconduct, nor is it designed to allow those who defraud or damage the organisation to escape punishment;
- ii. does not guarantee members of staff a privileged position in any redundancy situation that may arise, nor should it automatically stop any managerial or disciplinary action that may already be under way;
- iii. restricts the scope of disciplinary action for misuse of the policy to cases where the concern is found to be false AND it was raised in bad faith.

## **18. Consultation and Review**

This policy has been drawn up in consultation with other employing authorities and staff organisations and will be reviewed every five years, subject to any changes precipitating an interim review.

## **Appendix A**

### **Guidance for Individuals**

#### **1. Raising a concern**

- i. Members of staff are often the first to realise that there may be something seriously wrong within their organisation. However, they may not wish to speak up because they may feel disloyal towards colleagues and their employer if they do so. They may also be concerned that they will be subject to victimisation or harassment if they speak out, or may feel it is easier to ignore their concerns if they only have an inkling or suspicion that something may be wrong. The Government is committed to ensuring that all of us have a safe, reliable and confidential way of reporting any suspicious activity. Every member of staff should know how they can raise concerns.
- ii. We all have a responsibility to help detect, prevent and report instances of wrongdoing. If you have a concern regarding a suspected instance of non-compliance, please speak up – your information and assistance will help.

#### **a) What concerns should be raised under this policy?**

- i. As a general guide, you should report your concerns if you consider it would be in the public interest to stop the malpractice and, if appropriate, for sanctions to be applied.

- ii. 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; eg '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.'
- iii. 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.
- iv. Issues which should be raised under this policy, and the list is not exhaustive, are where there is a suspicion or direct evidence that the following have been, are being, or are likely to be, committed by a fellow member of staff:
  - (1) a criminal offence or activity;
  - (2) fraud;
  - (3) financial mismanagement or corruption;
  - (4) physical or emotional abuse of prisoners, children or the elderly in care;
  - (5) health and safety issues concerning transport that puts the safety of workers or visitors at risk;
  - (6) health and safety issues concerning the workplace that puts the safety of workers or visitors at risk;
  - (7) medical negligence in health care establishment;
  - (8) undue favour shown, either on a contractual matter, or to a job applicant;
  - (9) bad working practice;
  - (10) breaches of legislation, eg Health and Safety, Data Protection Act;
  - (11) risks to the environment eg dumping damaging material;
  - (12) a breach of the Government, Department, Regulatory or Professional Body Code of Conduct;
  - (13) a breach of the Government Financial Regulations;
  - (14) concealment of any of the above;
  - (15) payments in exchange for awarding contracts and/or offering, taking or soliciting bribes (Whistleblowing in regard to bribery needs to be reported as per the Whistleblowing procedure **and** Anti-Bribery Procedure ie to a Designated Officer **and** a Constable in the Isle of Man Constabulary Financial Crime Unit<sup>4</sup>).
- v. For any issues not listed here, you should use your judgment as to whether to take action under this policy. If in any doubt, you are advised to follow the terms of this policy and make a disclosure. Should your report relate to issues outside its scope, you will be advised accordingly.

**b) With whom should your concerns be raised?**

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

- i. 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, there are other safe alternatives.
- ii. An officer of your Board, Department or Office has been appointed to act as a Designated Officer under this policy. You should refer your concerns to that officer in the event that you do not wish to report the issue to your manager. A list of Designated Officers can be found at Appendix E or on the Intranet 'Anti-Fraud, Bribery and Corruption' site. If you do not have access to the Intranet, 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 Officer in your area. You are encouraged to disclose your name to the Designated Officer whenever possible. If you have other queries in this regard please call 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.
- iii. If the concern involves the Designated Officer, the matter should be reported to the Accounting Officer who will appoint an alternative Designated Officer. If the concern involves the Chief Executive, then this will be reported to the Minister or Chairperson responsible for that Department, Board or Office, who will decide how the investigation will proceed.
- iv. If you require further advice you may wish to contact your trade union office or the Manx Industrial Relations Service (MIRS). This 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.
- v. 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.
- vi. For a flowchart illustrating the Whistleblowing process see Appendix F.

**c) How should you raise your concern?**

- i. You are encouraged to raise any concerns verbally with your line manager in the first instance. Although you are not expected to prove an allegation, you will need to demonstrate that there are sufficient grounds for your concern.
- ii. Concerns are best raised in writing, though they can also be expressed verbally e.g. through a telephone call. As much information as possible should be given, which should include:
  - (1) the background to the concern;
  - (2) name/s of individual/s involved;

- (3) details of dates and places where the malpractice occurred or is likely to occur;
  - (4) the reasons why you are particularly concerned/making the disclosure, i.e. ground for suspicions.
- iii. If you raise your concern formally by invoking the policy with your line manager, a Designated Officer, via the Audit Advisory Division Confidential Reporting telephone number 686552 or by email to [enquiries.audit@gov.im](mailto:enquiries.audit@gov.im), a record should be made of the key details and a copy may be shared with you.
  - iv. You are encouraged to provide your name when you make a disclosure under this policy. Your identity can be protected and confidentiality will be respected if subsequent action is taken.

## **2. How the Government will respond to a disclosure**

- i. Where concerns are raised, whether in writing or otherwise, an initial confidential interview will be arranged between you and the Designated Officer to discuss the matter as soon as practicable. At this stage you will be asked if you are content for your identity as a party disclosing information, to be disclosed during the investigation. 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 Officer and a copy given to you for your records.
- ii. All concerns will then be reported to the Accounting Officer, usually the Chief Executive of your Department, and may be progressed in conjunction with the Director, Audit Advisory Division. Bear in mind, that if 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. (See page 7 No. 8 of this document)
- iii. 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. Consideration of what is in the public interest will be of paramount importance.
- iv. If the concern raised involves the Designated Officer, the Accounting Officer will appoint an alternative Designated Officer.
- v. If the concern involves a Chief Executive, the Minister or Chairperson responsible for that Department, Board or Office will decide how the investigation is to proceed. This may include an external investigation.
- vi. 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, or through the disciplinary process;
  - 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 inquiry;
  - f) be subject to any combination of the above.
  
- vii. In order to protect individuals and the Government, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. Concerns or allegations that fall within the scope of specific procedures (e.g. child protection, Fairness at Work or discrimination issues) will normally be referred for consideration under those procedures.
  
- viii. Some concerns may be resolved by agreed action without the need for investigation.
  
- ix. In any case where the preliminary enquiries give grounds for believing that a criminal offence may have been committed, reference should be made to the Disciplinary Procedures laid down in the terms and conditions of the individual who is alleged to have committed the offence.
  
- x. The Designated Officer will write to you within ten working days of a concern being raised to:
  - a) 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 you 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.
  
- xi. The amount of contact between the Designated Officer /individual considering the issue 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.
  
- xii. When any meeting is arranged, you have the right, if you so wish, to be accompanied by a trade union/professional association representative or a work colleague. The meeting can take place at your place of work, at your home, or elsewhere if you wish. The Designated Officer may require a note taker at the meeting and may be accompanied accordingly.
  
- xiii. 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. If the matter does progress to this stage, and 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.
  
- xiv. The Designated Officer 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 Officer will arrange for you to receive advice about such procedures.

- xv. The Designated Officer will produce a written report to the Accounting Officer that:
  - a) outlines the complaint;
  - b) details the investigation process;
  - c) gives the outcome of the investigation; and
  - d) details recommendations where appropriate.
- xvi. Whilst you may not 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.

## **Appendix B**

### **Guidance for Line Managers<sup>5</sup>**

#### **1. When a concern is raised**

- i. When a concern is raised, whether formally under the policy or not, it is important that the line manager listens carefully and avoids pre-judging the issue. If the manager does not feel able to do this, they should encourage the member of staff to raise the concern with the Designated Officer.
- ii. The first issue to be decided is whether it should be treated as a whistleblowing concern. When considering this it is helpful to bear in mind the following:
  - a) Whistleblowing presupposes there is an outside agency (eg a regulator, the Police or media) which would have a legitimate interest to investigate the underlying public interest concern.
  - b) 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.
  - c) Whistleblowing is an aspect of good citizenship in that the member of staff is speaking up for and on behalf of people who are at risk but are usually unaware of it and so unable to do anything to protect themselves.
- iii. Managers should assess:
  - a) how serious and urgent the risk is;
  - b) whether the concern can best be dealt with under the Whistleblowing policy or some other procedure;
  - c) whether the assistance of or referral to senior managers or a specialist function will be desirable or necessary.
- iv. 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

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<sup>5</sup> British Standards Institution Whistleblowing Arrangements Code of Practice

the organisation addresses the matter on that basis and does not build its response around the member of staff's evidence. If this appears a realistic way forward, the member of staff should be informed.

- v. Where a member of staff formally invokes the policy and raises a concern with their line manager or at a higher level, it is helpful if the line manager or Designated Officer establishes:
  - a) if the member of staff 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) where the approach is to a Designated Officer, whether the member of staff has raised the concern with their line manager? and
    - if not, why? and
    - if so, with what effect?
  - e) whether confidentiality is sought;
  - f) whether and when the member of staff wants feedback; and
  - g) if there is anything else relevant the member of staff should mention.
- vi. These issues are indicative of the approach that may be taken and should not be seen as a definitive list.
- vii. Line Managers notified of a concern:
  - a) have 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) should keep the member of staff advised of progress;
  - d) have a responsibility to ensure that the action necessary to resolve the concern is taken.
- viii. Finally, the manager might wish to write to the member of staff summarising the concern, noting whether it was raised openly or confidentially, and stating what steps will be taken. Such a note, which can usefully also serve as a record, may state when feedback can be expected. It can also ask the member of staff to make contact if they have any questions or further information relating to the concern.

## **2. Addressing a concern**

- i. Where the issue is sensitive, the number of people involved in addressing any whistleblowing 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 confidentiality has been promised, it should be respected.
- ii. 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 member of staff 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 Officer.
- iii. 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.



- iv. **NOTE:** Keeping the whistleblower updated as to progress, and ensuring they can contact the Designated Officer if they have any questions, will help manage expectations, pre-empt problems and ensure the process works well.
- v. When considering how to address the concern, the organisation and those dealing with it can sensibly assume that they will be asked to explain their actions, be it to a regulator, court, supervisory body or the media. The organisation should also consider whether it should itself inform an external body (e.g. a regulator, a supervisory department or the police) once a serious issue has been identified, either to enlist their assistance or to reassure them and members of staff that the matter is being addressed properly.

### **3. Records**

- i. As many whistleblowing concerns will be raised with and addressed by line managers in the course of day-to-day business, care should be taken not to impose a disproportionate scheme for recording all whistleblowing concerns. It should be sufficient for managers to record and pass on a summary of the concern where a member of staff has formally invoked the Whistleblowing policy, or where the manager thinks the concern of such significance that it is sensible that a central record is kept. Those who receive a concern outside of line management should keep records and these should also be logged centrally.
- ii. Such records may 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 member of staff; and
  - f) any general observations.
- iii. The organisation should ensure that the compilation and maintenance of these records complies with its data protection procedures.

### **4. Reassurance**

Where the member of staff is concerned that they might suffer reprisals, they should be encouraged to come back to the Designated Officer or their original point of contact 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 will be necessary to liaise with OHR on whether some swift reminder of the organisation's policy or some other action is appropriate or necessary.

## **Appendix C**

### **Definitions and Glossary**

#### **Accounting Officer**

Chief Officer of a Department, Board or Office

**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 the member of staff'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 if in the public interest.

**Designated 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 organization.

**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.

### **Vexatious or Malicious allegation**

In the context of this policy an allegation is vexatious or malicious 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.

### **Whistleblowing**

Whistleblowing is the popular term used when someone who works in or for an organisation (referred to in this document as a 'member of staff') 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. Whistleblowing is also known as 'Making a Disclosure in the Public Interest.'

### **What is a Whistleblowing Concern?**

A reasonable and honest suspicion a member of staff has about a possible fraud, crime, danger or other serious risk that threatens customers, colleagues, the public 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
- Gross negligence or mismanagement by public officials.

<b>Legislation Relevant to Protected Disclosures</b>	
<a href="#">Bribery Act 2013</a>	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. The terms of this Act overrule confidentiality terms in contracts or agreements of employment that seek to prevent workers from making protected disclosures.
<a href="#">Council of Ministers Act 1990</a>	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.
<a href="#">Data Protection Act 2018</a>	Confidentiality: <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> Crime and Taxation: <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 2016</a>	A Protected Disclosure is: <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>	Financial Direction A3 – ‘The Acceptance of Gifts and Rewards’ Financial Practice Note A.02 – ‘Gifts and Rewards’ <ul style="list-style-type: none"> <li>Only low value gifts or conventional hospitality may be accepted.</li> </ul> Financial Direction A4 – Financial Irregularities <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>	Isle of Man Health and Safety at Work Act 1977 makes provision for application of the UK Act in the Isle of Man 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. 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.
<a href="#">Income Tax Act 1970</a>	You do not have to keep information confidential: <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>	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.

### Relevant Legislation, Regulations, Policies, Procedures, Codes and Guides

[Acceptance of gifts, entertainment, sponsorship and donations](#) (FD A3 + FPN A.02)  
Acceptance of gifts, hospitality and travel See 2.30 and 6.35 in [Government Code](#)  
[Anti-Bribery Policy and Procedure](#)  
[Anti-Fraud and Corruption Strategy](#)  
[Asset Management and Disposal](#) (FD D and FD F)  
[Blowing the Whistle to a Prescribed Person: List of prescribed persons and bodies \(UK\)](#)  
[Bribery Act 2013](#)  
[Bribery Awareness Briefing - 2014](#)  
[A Brief Guide to Whistleblowing December 2016](#)  
[Civil Service Regulations](#)  
[Civil Service Code](#)  
[Code of Conduct](#)  
[Code of Conduct for Public Servants](#)  
[Code of Practice on Disciplinary and Grievance Procedures](#)  
[Conflicts of Interest 6.42 Government Code](#)  
[Conflicts of Interest: Staff Guidance Note April 2007](#)  
[Criminal Proceedings](#)  
[Data Protection Act 2018](#)  
[Disciplinary Procedures](#) (See PSC Civil Service, Manual & Craft and MPTC Ts & Cs)  
[Employment Act 2006](#) (See 'Protected Disclosures' Part IV p.53 and 'Detriment' Part V)  
[Fairness at Work Policy](#)  
[Financial Regulations](#)  
[Fraud Response Plan](#)  
[Government Code](#)  
[Guidance for Public Servants participating in political activities and standing for election](#)  
[Health & Safety Legislation](#)  
[Know your Customer Guidance Notes](#)  
[Land & Building Acquisition \(FPN C.05\)](#)  
[Official Orders for Goods and Services \(FPN C.8 & FPN C.9\)](#)  
[Official Secrets Act Form](#)  
[Payment of Invoices \(FPN C.10\)](#)  
[Tender Evaluation \(FD8\)](#)  
[Public Interest Disclosure Act \(PIDA\) – UK Legislation](#)  
[The Public Interest Disclosure \(Prescribed Persons\) Order 2016](#)  
[Register of Members' Interests](#) Rules  
[Suspected Irregularity Reporting Guidelines](#) (FDA4)  
[Whistleblowing Factsheet \(CIPD\)](#)  
[Whistleblowing Frequently Asked Questions on legal issues relating to whistleblowing \(CIPD\)](#)

### Designated Officers

The list of Designated Officers across Government Departments may be accessed via the 'Government' tab on the [Government Intranet](#).

If you are unsure who your Designated Officer is 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**

Legal and Administration Manager  
Head of Corporate Services

#### **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**

Deputy Chief Executive Officer

#### **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

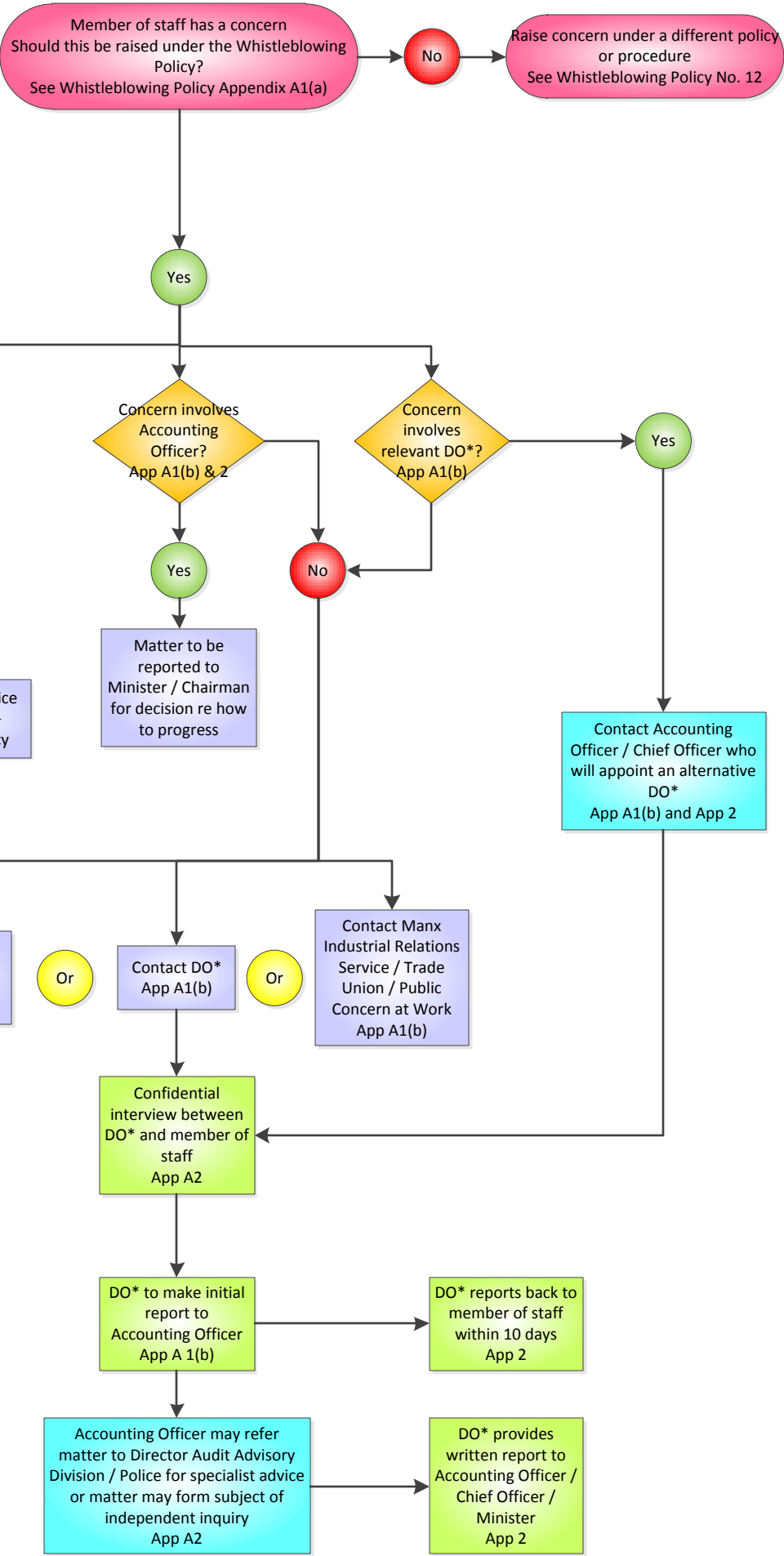
#### **Treasury**

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

**Updated: November 2021**

# APPENDIX F: FLOWCHART TO ILLUSTRATE THE WHISTLEBLOWING PROCESS

**Note:**  
 If a concern involves a suspected financial irregularity, this should be reported to the Director, Audit Advisory Division or FLO\*\* as per FD11  
<https://www.gov.im/media/1207714/finregs-april-2015-v12.pdf>



\*DO – Designated Officer  
 \*\*FLO – Fraud Liaison Officer



This document can be provided in large print or audio tape on request

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