

Isle of Man Government Whistleblowing Policy

The Role of the Designated Manager

Introduction

A Designated Manager is the person who will manage the whistleblowing case.

This may be one of Whistleblowing Officer nominated by the organisation – as detailed at Annex C of the policy or it could be the person that the organisation requires to manage the concern.

Designated Managers must familiarise themselves with all parts of the Whistleblowing Policy. Training will be available from LEaD.

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

1. Ensure the whistleblower is kept suitably informed throughout the process.
2. Inform the employee of their right to be accompanied by a union/staff representative/colleague at all stages.
3. 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).

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, which are:

1. A criminal offence;
2. The breach of a legal obligation;
3. A miscarriage of justice;
4. A danger to the health or safety of any individual or individuals;
5. Damage to the environment; or
6. Deliberate covering up of information tending to show any of the above five matters.

A Designated Manager should assess:

1. 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);
2. whether the concern is best dealt with under the Whistleblowing Policy or some other procedure (e.g. Fairness at Work, Grievance);
3. 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.

In considering the disclosure the Designated Manager should establish:

1. If the employee is anxious about reprisals,
2. When the concern first arose and, where relevant, what is prompting the decision to speak up now?
3. Whether the information is first hand or hearsay?
4. Whether the employee has raised the concern with their line manager? and
5. If not, why? and
6. If so, with what effect?
7. Whether confidentiality is sought and if so, clarify the policy (page 8) on protecting the identity of a whistleblower,
8. Whether and when the employee wants feedback, and
9. 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.

Acting on a disclosure

The Designated Manager notified of a concern:

1. Has a responsibility to ensure that concerns raised are taken seriously.
2. Acknowledge receipt of the concern.
3. Should, where appropriate, arrange to investigate properly and make an objective assessment of the concern, this may be referred to an Internal or External Investigation Officer. Details of trained officers are held by the Office of Human Resources.
4. The Designated Manager may recommend, to the Accounting Officer that immediate steps such as suspension¹ or redeployment to other duties are appropriate².
5. Has a responsibility to ensure that the action necessary to resolve the concern is taken; and
6. 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 within 10 working days, write to the employee 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.

¹ Individual would need to be informed of allegations before suspension.

² If the Whistleblowing concern involves the Accounting Officer, suspension/redeployment should be considered by a delegate who has the authority to dismiss/redeploy.

Considerations

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 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.

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 clarity about the protection that exists may be 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)

Record Keeping

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

Such records should include:

1. The date, the Department, Board or Office, the risk(s) involved and whether they are ongoing,
2. 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,
3. whether confidentiality was requested/explained/promised,
4. whether the concern was raised with line management,
5. whether feedback was given and any response from the employee,
6. whether the employee has ceased to be employed following invoking the policy and the reasons for their termination,
7. whether the concern would meet the test of in the public interest, and
8. any general observations.

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

Report to the Public Services Commission

Designated Managers should ensure that the information 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.