

# CONFIDENTIAL REPORTING ('WHISTLEBLOWING') POLICY

## 1. Purpose

The National Archives is committed to the highest possible standards of openness, honesty and accountability. In line with that commitment, we expect anyone who has serious concerns about any aspect of the work within TNA to come forward and inform senior management of those concerns. This policy provides a confidential procedure through which such concerns can be reported and investigated.

## 2. Scope

This Confidential Reporting Policy applies to all members of staff, and those contractors working for TNA, e.g. consultants, agency staff, builders, security or catering staff. It also covers suppliers and those providing services under a contract with TNA on their own premises. Within this policy the phrase 'members of staff' includes all the above.

The policy also takes into account the requirements of the Public Interest Disclosure Act 1998 (PIDA 1998)<sup>1</sup> and the Civil Service Code 2006.

This policy does not cover complaints relating to:

Staff concerns relating to their employment or the way they are treated at work (including complaints regarding discrimination harassment etc.)  
- this is covered in the Grievance Procedure.

The Main Review Appeal process

The Selection Procedure - this is covered by the Recruitment Policy

Job Evaluation

The policies are available on Narnia (TNA intranet).

<sup>1</sup> *The Public Interest Disclosure Act 1998 came into force in July 1999. It enables workers who 'blow the whistle' about wrongdoing, to complain to an employment tribunal if they are dismissed or suffer any other form of detriment for doing so. Only employees can complain of unfair dismissal but workers who are not employees can complain that they have been subjected to a detriment if their contracts are terminated because they have made a protected disclosure. The legislation covers workers in the public sector (with some exceptions e.g. those who work in the Security Services) as well as the private sector.*

### **3. Principles**

Members of staff are often the first to be aware that there may be something seriously wrong within TNA. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to TNA. They may also fear harassment or victimisation. In these circumstances it may be easier to ignore the concern rather than report any suspicions.

This policy makes it clear that individuals can raise concerns without fear of victimisation, subsequent discrimination or disadvantage. This policy is intended to encourage and enable individuals to raise serious concerns within TNA rather than overlooking a problem or 'blowing the whistle' outside. These procedures are separate from the Complaints procedures for readers and other statutory or non-statutory reporting procedures.

### **4. Aims**

This policy aims to:

encourage individuals to raise serious concerns and to question and act upon concerns about practice;

provide procedures to raise those concerns;

ensure that individuals receive a response to their concerns and that they are aware of how to pursue them if they are not satisfied, where they have a reasonable belief that they have made a disclosure in good faith.

This policy is intended to cover major concerns about malpractice that fall outside the scope of other procedures. PIDA 1998 identifies specific categories, referred to as "qualifying disclosures" which are the subject of special protection under the law. In order for a disclosure to be a qualifying disclosure, it must be disclosure of information, which shows one or more of the following:

that a criminal offence has been, is being, or is likely to be committed;

that a person has failed, is failing or is likely to fail to comply with any legal obligation;

that a miscarriage of justice has occurred, is occurring, or is likely to occur;

that the health and safety of any member of staff has been, is being, or is likely to be endangered;

that the environment has been, is being, or is likely to be damaged;

that information tending to show any matter falling within any one of the preceding matters has been, is being, or is likely to be deliberately concealed.

However, this policy also includes other areas of serious concern such as the unauthorised use of public funds, fraud and corruption, or other serious breaches of the Civil Service Code.

Any serious concerns that members of staff have about any aspect of service provision or the conduct of members of TNA or others acting on TNA's behalf can be reported under this policy. This may be about something that:

makes individuals feel uncomfortable in terms of known standards, experience or the standards they believe TNA subscribes to; or

is against TNA's policies; or

falls below established standards of practice; or

amounts to improper conduct.

Examples of areas which would be covered by whistleblowing could be:

a. Fraud e.g. by someone whose work includes dealing with invoices etc;

b. Accepting inducements from potential contractors to award a contract to them;

c. Theft of TNA property, particularly the unauthorized removal of records from site.

d. Improper use of information held by TNA

## **5. Safeguards**

TNA recognises that the decision to report a concern can be a difficult one to make. This policy is designed to offer protection to individuals who disclose concerns, provided the member of staff makes the disclosure

in good faith; and

in the reasonable belief that malpractice is involved.

TNA will not tolerate any harassment or victimisation (including informal pressures) and will take appropriate action to protect any member of staff who raises a concern in good faith. In this respect, the Public Interest Disclosure Act 1998 enables workers, who 'blow the whistle' about wrongdoing, to complain to an employment tribunal if they are dismissed or suffer any other form of detriment for doing so.

Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary or redundancy procedures that already affect a member of staff making a disclosure.

## **6. Confidentiality**

TNA will treat all such disclosures in a confidential and sensitive manner. The identity of the member of staff making the allegation will be kept confidential so long as it does not hinder or frustrate any investigation. However, the investigation process may reveal the source of the information and the member of staff making the disclosure may need to provide a statement or come forward as a witness as part of the evidence required. If this is the case the member of staff will be consulted.

## **7. Anonymous Allegations**

Individuals are encouraged to put their name to any disclosures they make. Concerns expressed anonymously are much less credible, and more difficult to investigate fully, but they may be considered at the discretion of the Chair of the Audit Committee.

In exercising this discretion the factors to be taken into account would include:

the seriousness of the issues raised;

the credibility of the concern; and

the likelihood of confirming the allegation from attributable sources.

## **8. Untrue Allegations**

If a member of staff makes an allegation in good faith, which is not confirmed by the investigation, no action will be taken against that individual. In making a disclosure, the member of staff should exercise their duty of care to ensure the accuracy of the information. If, however, a member of staff has made frivolous, malicious or vexatious allegations, or allegations for personal gain, disciplinary action may be taken against that particular individual.

## **9. Advice**

Confidential guidance on how to pursue matters of concern may be obtained from

Human Resources

Your trade union representative

## **10. The Whistleblowing Procedure**

The Chair of TNA's Audit Committee (an independent non-executive Director) is responsible for overall supervision of the Whistleblowing procedure. Staff may raise individual concerns either to the Chair of the Audit Committee, or to the Chief

Executive. They are supported in their role by the Director of HR and Organisational Development. If you are concerned about matters which are covered by the scope of this procedure you should contact the Director of HR and Organisational Development, who will bring the matter to the attention of the Chair of the Audit Committee, or the Chief Executive, in accordance with your wishes.

The earlier a concern is raised, the easier it is to take action. Concerns may be raised verbally or in writing. Staff who wish to make a written report should use the following format:

the background and history of the concern (giving relevant dates);

the reason why they are particularly concerned about the situation.

The confidential email address is [Whistle-Blowing@nationalarchives.gsi.gov.uk](mailto:Whistle-Blowing@nationalarchives.gsi.gov.uk)

Although individuals are not expected to prove beyond doubt the truth of an allegation, they will need to demonstrate that there are reasonable grounds for their concern to be acted upon.

#### 10.1 Investigation

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. Any internal investigation should be dealt with within 30 working days.

Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required this will be taken before any investigation is conducted.

The Chair of the Audit Committee, or Chief Executive, as appropriate, will decide on the form of investigation to be undertaken and to whom the investigation should be delegated. Where relevant, the matters raised may:

be investigated by management or through the disciplinary process;

be referred to the police;

be referred to the appropriate external auditor;

form the subject of an independent inquiry.

The Head of Internal Audit will be informed of all suspected frauds and irregularities from the outset of any investigation that might be undertaken.

Within 10 working days of a concern being raised, the Director of HR and Organisational Development will write to the individual:

Acknowledging that the concern has been received;

Indicating how the matter will be progressed;

Giving an estimate of how long it will take to provide a final response.

Informing whether any initial enquiries have been made; and

Stating whether further investigations will take place and if not, why not.

The amount of contact between those considering the issues and the member of staff will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, the Director of HR and Organisational Development will seek further information from the individual. Where any meeting is arranged, off-site if necessary, the member of staff may be accompanied by their trade union representative or a work colleague if they wish.

TNA will take steps to minimise any difficulties which individuals may experience as a result of raising a concern. For instance, if a member of staff is required to give evidence in criminal or disciplinary proceedings TNA will arrange for them to receive any necessary support and advice about the procedure.

TNA accepts that the member of staff needs to be assured that the matter has been properly addressed. Thus, subject to legal constraints, the Director of HR and Organisational Development will inform the member of staff of the outcome of any investigation.

## 10.2 Monitoring

The Chair of the Audit Committee has overall responsibility for the maintenance and operation of this policy. He/she will ensure that a record is kept of concerns raised and the outcomes (but in a form which does not endanger confidentiality).

## **11. Taking the Matter Further**

TNA hopes members of staff will be satisfied with any action taken. If, having raised concerns in accordance with this policy, the complainant is unhappy with the response received, under the provisions of the Civil Service Code they can report the matter to Civil Service Commissioners on 020 7276 2613 or write to the Civil Service Commissioners, 35 Great Smith Street, London SW1P 3BQ.

## **Frequently Asked Questions**

### **Q1: What are my rights under the Public Interest Disclosure Act?**

Your disclosure is deemed to be protected; you would automatically be reinstated at a tribunal if you had been dismissed. Uncapped compensation can also be awarded at the tribunal to a worker who is penalised or victimised for making a protected disclosure. This protection applies irrespective of age or duration of employment.

### **Q2: What is a protected disclosure?**

In order for a disclosure to be a qualifying (i.e. protected) disclosure, it must be disclosure of information which shows one or more of the following:

that a criminal offence has been, is being, or is likely to be committed;

that a person has failed, is failing, or is likely to fail to comply with any legal obligation;

that a miscarriage of justice has occurred, is occurring, or is likely to occur;

that the health and safety of any member of staff has been, is being, or is likely to be endangered;

that the environment has been, is being, or is likely to be damaged; and/or

that information tending to show any matter falling within any one of the preceding matters has been, is being, or is likely to be deliberately concealed.

### **Q3: Under what circumstances is a disclosure protected?**

In order for a disclosure to be protected, you must show that you acted reasonably and responsibly. Provided it was made in good faith, a disclosure will be still be protected even if it ends up being unfounded. However an employee who makes a rash disclosure (to the media, for example, of a matter which could and should have been raised internally) will not be protected.

### **Q4: What if a disclosure is malicious or reckless and without foundation?**

In such circumstances the member of staff making the disclosure would not be protected. The member of staff may be subject to TNAs' disciplinary procedures. This would depend on the individual circumstances.

**Q5: What if the person making the disclosure is, or has been, part of the malpractice?**

This depends on the circumstances. There can be no guarantee of immunity from the action against a person making such a disclosure. The fact that he/she ultimately revealed the malpractice might mitigate against any subsequent penalty imposed.

**Contacts:**

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