

Reference: IR852

Date issued: 11 November 2022

Internal Whistleblowing Policy

I am writing in response to your request for information dated 11 November 2022 in which you requested information regarding our internal whistleblowing policy.

I attach a copy of our internal whistleblowing policy for your information. I have redacted some personal data from the policy as falls within section 40(2) of the Freedom of Information Act 2000 exemption. This is because disclosure would breach the data protection principles of the Data Protection Act 2018. This is an absolute exemption.

If you have any queries, or questions about my handling of your request, please do not hesitate to contact me.

Yours sincerely,

Information Officer

Date issued: September 2019

Key contact: [REDACTED]

Review date: September 2024

Wales Audit Office Internal Whistleblowing Policy

- 1 As the WAO Staff Code of Conduct makes clear, all Wales Audit Office staff are encouraged to raise issues of concern about misconduct or wrongdoing that come to their attention while at work. The Auditor General and WAO Board regard the internal identification of wrongdoing as an important contribution to managing corporate risk and ensuring good governance.
- 2 This policy sets out the mechanisms for raising such matters, and it reflects the Public Interest Disclosure Act 1998 (PIDA). It applies to all staff of the WAO and all workers providing service to the WAO¹.

The protection provided by PIDA

- 3 PIDA operates to protect whistleblowers from detriment at the hands of their employer (e.g., dismissal) after making a disclosure to their employer about wrongdoing in the workplace. If a worker holds a reasonable belief that disclosure of the misconduct or wrongdoing is in the public interest, and provided that the disclosure tends to show one of the “relevant failures” listed in para 5 below and is not itself an offence, then such a disclosure made to their employer is protected under PIDA.
- 4 Whistleblowing is not the same as raising a grievance. A grievance is solely a personal matter rather than one of wider concern, or one that affects the interests of others. Personal grievances should be raised in accordance with the WAO Grievance Policy.
- 5 The following matters are “relevant failures” under PIDA:
 - crimes (e.g., fraud through false expense claims);
 - breach of a legal obligation (e.g., failure to keep personal information securely);
 - miscarriage of justice;
 - causing danger to health and safety (e.g., by failing to maintain safety equipment);
 - causing damage to the environment (e.g., fly-tipping); and

¹ For brevity, this policy uses ‘staff’ to refer to Wales Audit Office employees as well as contractors and others working for the Wales Audit Office in any capacity.

- attempts to cover up such wrongdoing mentioned above.
- 6 It is important to note that it is for an employment tribunal to decide after the event whether or not a disclosure was protected under PIDA. No member or employee of the Wales Audit Office can determine whether a disclosure is protected.

Protections within the WAO

- 7 If allegations are made that a member of staff has suffered reprisals as a result of raising genuine concerns under this policy, then such allegations will be taken very seriously and will be dealt with in accordance with the WAO Disciplinary Policy. (In the case of Board members who are not employees, the Assembly's Finance Committee will be informed.) Similarly, anyone subjecting staff to any treatment intended to deter them from raising concerns will be dealt with in accordance with WAO Disciplinary Policy. The WAO will not tolerate any reprisals against staff who have raised concerns that they believe are true.
- 8 You will not face sanctions from the WAO for disclosures that you believe are true even if on investigation they prove incorrect. However, making known false allegations through these arrangements is misconduct and will be dealt with accordingly.

How to raise concerns internally

- 9 In the first instance, staff should usually raise concerns about wrongdoing with their Line Manager or another appropriate manager or director (e.g., a project Engagement Lead), who must deal with the issues you raise seriously and appropriately. They must consider whether the matters require investigation, arrange investigation where appropriate and remedial and preventative action where necessary. Whoever receives a disclosure under this policy should obtain advice from the Law & Ethics Team if they are unsure how to deal with it properly. They should also, if the person making the disclosure is content, notify the Law & Ethics team, so as to allow overall monitoring of the organisation's arrangements. The Law & Ethics team are happy to help with any queries regarding whistleblowing disclosures.
- 10 If you do not feel able to raise issues with your Line Manager or another manager or director, then you may make a disclosure to the Head of Law & Ethics ([REDACTED]) or another member of the Law & Ethics Team.
- 11 To make a disclosure or discuss concerns, contact the Head of Law & Ethics as follows:

E-mail: [REDACTED]

Phone: [REDACTED]

Or write to:

Private and Confidential

Law and Ethics Manager
Wales Audit Office
24 Cathedral Road
Cardiff CF11 9LJ

- 12 You may make disclosures anonymously—such disclosures are preferably to silence. Practically, however, they are not ideal, as, for example, it may not be possible to provide feedback.
- 13 These arrangements apply regardless of the timing of the alleged wrongdoing. You may disclose something that took place in the past, something that is currently taking place, or even something that seems it will take place in the future.

What happens with disclosures

- 14 Law & Ethics will consider whether the matters require investigation and arrange investigation where appropriate. Investigations may be undertaken by the Law & Ethics director or by an external contractor from a panel maintained by Law & Ethics. Wherever possible, the Head of Law & Ethics will send you feedback when investigations are concluded, subject to legal limitations on the disclosure of certain types of information. The time needed to investigate will vary according to the nature of the matters disclosed, but where it is possible to provide feedback, this will usually be given within one month.
- 15 If an investigation shows a need for the organisation to address wrongdoing, the investigator will report his or her findings to the Director of Corporate Services so that appropriate management action may be taken, in consultation with the Executive Leadership Team or the Board where necessary.
- 16 All disclosures will be treated in confidence, as far as the law allows. The Freedom of Information Act 2000 provides exemptions from disclosure for such information.

Further avenues for raising concerns

- 17 If you think it appropriate in the circumstances, such as where your concerns relate to the Head of Law & Ethics or a director, you may raise concerns directly with a member of the Executive Leadership Team. Should your disclosure relate to a member of the Executive Leadership Team, you may raise your concern with the Auditor General. Where there are reasonable grounds for not making a disclosure through the channels set out above, you may contact the WAO's Senior Independent Director (currently [REDACTED]). Any recipient of a disclosure must consider whether the matters require investigation, arrange investigation where appropriate and remedial and preventative action where necessary.

- 18 These internal whistleblowing arrangements do not preclude you from making disclosures to persons outside the organisation. However, you should note that the criteria that must be met in order for PIDA to apply are more extensive for external disclosures than internal disclosures. If you are contemplating making a disclosure and are in doubt as to your legal rights, you should consider obtaining independent legal advice from an appropriately qualified adviser. You may wish to consult your trade union representative in order to access such advice. You may also wish to contact Protect (formerly Public Concern at Work), a charity specialising in providing advice for whistleblowers, on 020 3117 2520 or visit their website, protect-advice.org.uk. Furthermore, if you feel unable to make a disclosure under our internal arrangements, you may also wish to consider whether disclosure to a “prescribed person” for a particular matter may be appropriate (see <https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2>).