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## **OISC Whistleblowing Policy and Procedure**

### **1. Introduction**

- 1.1 Employees will often be the first to realise that there may be something seriously wrong within their organisation, the OISC being no exception. However, they may not express their concerns because they feel that speaking up would be disloyal to the organisation or their colleagues. They may also fear harassment or victimisation. In these circumstances, they may therefore choose to ignore the concern rather than report what may just be a suspicion of malpractice.
- 1.2 The Government introduced legislation in the form of the Public Interest Disclosure Act 1998 to help improve accountability and good governance in all organisations by assuring workers concerned about malpractice that it is safe to raise their concerns. It also encourages employers to be receptive to such concerns and penalises them if they respond by victimising the worker.

### **2. Policy**

#### **2.1 Aim**

- 2.1.1 The OISC is committed to the highest standards of openness, probity and accountability. In line with that commitment, we recognise that an important aspect of accountability and transparency is a mechanism to enable our employees to voice concerns about breaches or failures in a reasonable and effective manner. This policy is intended to help employees who believe they have discovered malpractice or impropriety and to protect them from victimisation and reprisal should they raise concerns in the public interest or 'blow the whistle'.

#### **2.2 Scope**

- 2.2.1 This policy applies to:
- OISC employees;
  - Secondees to the OISC;
  - Temporary agency staff; and
  - Contractors and sub-contractors.

#### **2.3 Distinguishing between grievances and whistleblowing**

- 2.3.1 This whistleblowing policy and procedure should be used when an employee has any concern about wrongdoing in the workplace, which it would be in the public's interest to have raised, as it could negatively affect others, such as customers, colleagues, or the public.
- 2.3.2 A grievance is, by contrast, a dispute about an employee's own employment position and has no public interest dimension. The 'OISC

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Grievance Resolution Policy and Procedure' should be used to resolve those types of disputes.

- 2.3.3 This policy should not be used to reconsider any matters which have already been addressed under grievance, disciplinary, or other OISC procedures. This policy will apply in cases where the employee genuinely believes that one or more of the following malpractices have occurred, is occurring, or is likely to occur. Examples of malpractice are:
- Criminal offences;
  - Failure to comply with legal obligations;
  - Miscarriages of justice;
  - Breach of the OISC's code of conduct;
  - Bribery, corruption (including abuse of authority) or other forms of dishonesty;
  - Fraud or financial irregularities (including improper or unauthorised use of public funds);
  - Actions which are unprofessional, inappropriate or conflict with a general understanding of what is right and wrong, e.g., actions which call into question the integrity of the work that the OISC undertakes; and
  - Deliberate concealing of information tending to show any of the above.
- 2.3.4 It is not necessary for the employee to prove that the breach or failure they are alleging has occurred or is likely to occur. The employee may simply raise reasonable suspicion. If they make an allegation which is not confirmed by a subsequent investigation, no action will be taken against them. However, if it is discovered that they made an allegation maliciously, disciplinary action may be taken.
- 2.3.5 Due to the varied nature of potential allegations, which may involve internal investigations and/or external bodies, it is not always possible to give precise timescales. However, a suitable Investigation Manager will be appointed who will ensure that the investigation is carried out as quickly as possible without affecting the quality and depth of the investigation.
- 2.3.6 The OISC will treat all disclosures in a confidential and sensitive manner. The identity of the individual making the allegation may be kept confidential so long as it does not hinder or frustrate any investigations. The employee should be aware that sometimes the investigatory process will reveal the source of disclosure and the person making the disclosure may need to provide a statement as part of the evidence required, for example, if police involvement is required.
- 2.3.7 The OISC will not tolerate harassment or victimisation and will take action to protect its employees when they raise a concern. Any harassment or victimisation will be treated as a serious disciplinary offence to be dealt with under the 'OISC's Disciplinary policy and procedure'.
- 2.3.8 All records relating to disclosures, any subsequent investigation and action taken will be managed in compliance with the Data Protection Act 1998.
- 2.3.9 The OISC encourages its employees to put their name to any disclosure they make. Concerns expressed anonymously are not automatically disregarded,

but will be considered at the discretion of the Deputy Commissioner or Audit Committee Chair. In exercising this discretion, the factors to be taken into account will include the seriousness of the issues raised and the likelihood of confirming evidence for the allegation from reliable sources.

- 2.3.10 The OISC recognises the lawful rights of people to make disclosures to prescribed persons such as the Health and Safety Executive and the National Audit Office, or, where justified, elsewhere. A full list of these prescribed bodies or persons can be found on the Gov.UK website link below:

<https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2>.

### **3. Responsibilities of our employees**

- 3.1 OISC employees are responsible for:

- Raising their concerns in good faith and maintaining confidentiality regarding their concerns;
- Raising their concerns in writing as soon as they have a reasonable suspicion (see appendix 1 - Raising concerns pro-forma); and
- Providing a full account and evidence for their concerns.

### **4. Responsibilities of the Human Resources (HR) team**

- 4.1 The HR team is responsible for:

- Providing advice and support to employees and the Investigation Managers involved in this procedure;
- Assisting in the appointment of a suitable Investigation Manager for any particular investigation;
- Investigating any allegations of harassment or victimisation experienced by the complainant, if relevant and
- Reviewing this policy annually or more regularly if there are changes to relevant legislation and advising the OISC's Senior Management Team and the Commissioners accordingly.

### **5. Responsibilities of the Investigation Manager**

- 5.1 The Investigation Manager is responsible for:

- Sending a written acknowledgment to the complainant;
- Ensuring the complainant is aware of, and understands, the contents of this policy and associated procedure;
- Protecting the identity of the complainant, if possible;
- Ensuring any investigation is undertaken as quickly as possible without affecting its quality and depth;
- Keeping the complainant informed, in writing, as to the progress of the investigation and when it is likely to be concluded;

- Reporting the outcome of the investigation to the complainant in writing and detail any actions proposed (excluding the outcome of any disciplinary process) arising; and
- Reporting the outcome of the investigation to the Commissioners.

## **6. Procedure**

### **6.1 How to raise a concern**

6.1.1 An employee should raise any concerns in writing to the Deputy Commissioner. If the complaint is against or in any way related to the actions of the Deputy Commissioner, the complaint should be made to the Commissioner. If the complaint is against or in any way related to the actions of the Commissioner, the complaint should be raised with the Chairman of the Audit and Risk Assurance Committee via the Head of HR's email. The Head of HR will then forward it to the personal email of the Chair of the Audit and Risk Assurance Committee. If the employee does not wish the Head of HR to see the complaint, it can be sealed in an envelope and the Head of HR will simply arrange for it to be forwarded unsealed to the Chair of the Audit and Risk Assurance Committee. The Head of HR's email is:

**[Larry.rush@oisc.gov.uk](mailto:Larry.rush@oisc.gov.uk)**

6.1.2 If the complaint involves the Head of HR, the Deputy Commissioner will deal.

6.1.3 If, after reading this policy, an employee remains unsure whether to use this procedure, they may wish to speak to a member of the HR team. Your trade union or employee representative may also be able to provide advice.

6.1.4 Employees can also obtain independent legal advice through the independent charity, Public Concern at Work. This is a leading authority on public interest whistle blowing. They can be contacted on 0207 404 6609 and at **[www.pcaw.org.uk](http://www.pcaw.org.uk)**.

### **6.2 Timescales**

6.2.1 The Investigation Manager will estimate likely timescales and notify all parties concerned.

### **6.3 Investigating procedure**

6.3.1 The Deputy Commissioner, the Commissioner, or the Chair of the Audit and Risk Assurance Committee will decide whether an investigation is appropriate, and, if so, what form it should take. They can decide to take no action if the complaint appears to be trivial or vexatious. The reasons will need to be stated if an investigation isn't considered appropriate.

6.3.2 The action taken will depend on the nature of the concern and may be:

- Resolved by agreed action without the need for investigation;
- Investigated internally;

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- Referred to the police;
- Referred to an external auditor; or
- The subject of an independent inquiry.

6.3.3 Some concerns may be resolved by agreed action without the need for an investigation. If this is the case, all necessary employees will be involved in those discussions.

6.3.4 If an investigation is required, the Deputy Commissioner, Commissioner, or the Chair of the Audit and Risk Assurance Committee will appoint an Investigation Manager to investigate the concern. The Investigation Manager should be a manager at an appropriate level for the matter under investigation. They should not have any conflict of interest with the people or issues concerned. If the member of staff objects to the Investigation Manager appointed because they are aware of a conflict of interest, they should make the Deputy Commissioner aware of those concerns. Following their appointment, the Investigation Manager will:

- Write to the complainant informing them that an investigation will be carried out;
- Inform the person or persons against whom the complaint is made as soon as possible but at a time that will not impede a thorough and full investigation such to avoid evidence being tampered when the matter concerns an alleged fraud. The individual(s) will be informed of their right to be accompanied by a companion (work colleague or trade union representative) at any interview or hearing held in accordance with these procedures;
- Obtain full details and clarifications of the complaint;
- Consider involving of the OISC's auditors and/or the police;
- Fully investigate the allegation with the assistance, where appropriate, of other individuals or bodies;
- Conclude the investigation by writing a report containing the findings of the investigation, including conclusions as to the validity of the allegations and recommendations for further action;
- Submit the report to the Deputy Commissioner, Commissioner, or the Chair of the Audit and Risk Assurance Committee, as appropriate, advising on the course of action to be taken; and
- Inform the complainant in writing of the outcome of the investigation and any action proposed.

### 6.4 How a matter can be taken further

6.4.1 If the complainant is not satisfied with the outcome of the internal procedure, they may report the matter to external individuals/bodies. The following are possible contact points:

- The Health and Safety Executive – for matters relating to health and safety at work or health and safety matters relating to the public;
- The National Audit Office – for matters relating to value for money, fraud and corruption ;
- Public Concern at Work; or
- The police.

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- 6.4.2 It is important that a disclosure or further complaint is made to the most relevant body or persons. Further information and a full list of prescribed bodies for this purpose can be found on the GOV.UK website.

## **Annex 1: Whistleblowing pro-forma - Raising a concern in the public interest**

**To be submitted to the** Deputy Commissioner, the Commissioner or the Chair of the Audit and Risk Assurance Committee. For use by any employee wishing to raise a concern that is in the public interest. Please read the OISC Whistleblowing Policy and Procedure before completing this form. If the employee requires any assistance in completing this form, they should contact the HR team, trade union representative or a work place colleague. Continue on a separate sheet if necessary.

**Full Name** .....  
**Job Title**.....

**Please describe the nature of your concern including a description of your concern including, where possible, precise information such as dates of events, names of those involved, meetings or correspondence that have taken place, reference to relevant documents or policies and any other information you consider may be helpful. If you have supporting documentary evidence, please attach it to this form.**

**Signature:** .....

**Date of submission:** .....

Received by:

**Deputy Commissioner, Commissioner/Chair Audit and Risk Assurance Committee:**

**Name:** .....

**Signature**.....

**Date of receipt**.....