

## **(D) Whistleblowing Code**

### **1. INTRODUCTION**

Officers are often the first to realise that there may be something seriously wrong within the Council. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Council. They may also fear harassment or victimisation. In these circumstances it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.

2. The Council does not presently have a Code of Whistleblowing, although there is one for the Isle of Man Government, which the Council (Policy & Resources Committee 16<sup>th</sup> March 2012) have adopted for guidance, as an interim measure.
3. However, as parts of the Government Policy are not relevant to the Council, the Council will still need to approve and adopt its own policy.
4. The policy will need to be the subject of local consultation with appropriate trade unions, and it will be subject to a report to Chief Officers Management Team and a report with recommendations to the Executive Committee in the future, for approval.



# Isle of Man Government Confidential Reporting (Whistleblowing) Policy

The Personnel Office

Reviewed April 2009

## **Introduction by the Chief Minister Hon J A Brown MHK**

Within any work organisation, especially a large one, it is important to provide safeguards for staff. This confidential reporting policy is intended to encourage and enable you to raise serious concerns within the Government without fear or reprisal.

The aim of the policy is to encourage you, in the first instance, to raise problems you identify within Government and not to ignore them or take them outside of Government before you have taken all the opportunities open to you to seek a resolution.

The Government would encourage you to use this procedure, and hopes that you will be confident that, if you are genuinely concerned about the matter you raise, your concerns will be handled with sensitivity and professionalism.

This document and the policies contained therein have been developed by the Civil Service Commission with the support of the Chief Officers Group and the endorsement of the Council of Ministers.

**Hon J A Brown MHK**  
**Chief Minister**

Issued October 2007  
Reviewed April 2009

The policy document issued by The Personnel Office has been approved by the Council of Ministers and is supported by the Civil Service Commission and Chief Officers Group.

## **Isle of Man Government Confidential Reporting (Whistleblowing) Policy**

### **1. Introduction**

#### **1.1 Scope**

This policy applies to all 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 or agency workers. Reference to 'employee(s)' within this document encompasses all of the above to whom the policy applies.

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.

#### **1.2 Policy**

The Government is committed to the highest possible standards of openness, probity and accountability. In line with these commitments, employees with serious concerns about any aspect of the Government's work are encouraged to voice them through appropriate channels. In so doing, it is recognised that, in certain cases, they may have to proceed on a confidential basis.

Employees are often the first to realise that there may be something seriously wrong within their organisation. However, they may not wish to speak up about concerns because they may feel disloyal towards colleagues and their employer if they do so. Employees may also feel concerned that they may be subject to victimisation or harassment if they speak out, or may feel it is easier to ignore their concerns if they only have inkling or suspicion something may be wrong.

To all employees, it is the intention of this policy to make it clear that you can speak out without fear of victimisation, discrimination or disadvantage. This confidential reporting policy is intended to encourage and enable you to exhaust all available avenues within the Government to raise serious concerns and seek resolution without fear or reprisal and to discourage you from ignoring problems.

It is vitally important that you raise issues of serious concern so that they can be fully investigated. The Government expects you to use this procedure, and wants you to be confident that, if you are genuinely concerned about the matter you raise, your concerns will be handled with sensitivity and professionalism.

This policy is intended to cover any major concerns you have that fall outside the scope of existing internal procedures. For instance, matters currently handled under existing policies, such as the DHSS Untoward Incident Reporting Procedure and the Government procedures for registering personal grievances such as harassment, violence, aggression, and discrimination should continue to be followed.

## **Isle of Man Government Confidential Reporting (Whistleblowing) Policy**

Nothing within this policy document overrides the statutory rights of any employee (See Section 7 below).

Issues which should be raised under this policy, and the list is by no means 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 employee(s) –

- a criminal offence
- fraud, bribery or corruption
- a breach of the Government Code of Conduct
- undue favour shown, either on a contractual matter, or to a job applicant
- bad working practice
- disregard for legislation, particularly in relation to health and safety in the workplace
- damage to the environment
- a breach of the Government Financial Regulations
- concealment of any of the above

For any issues not listed here, it will be for you to use your judgement 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, then you will be advised accordingly.

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.

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.

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.

### **1.3 Consultation**

This policy has been subject to local consultation with appropriate trade unions and professional associations.

### **1.4 Endorsement**

This revised policy was endorsed by the Council of Ministers on 15 January 2009, and comes into force with immediate effect.

## **Isle of Man Government Confidential Reporting (Whistleblowing) Policy**

### **2. Your assurance**

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 maybe even other colleagues. The Government will not tolerate harassment or victimisation from employees and will take appropriate action, including the application of disciplinary procedures, to protect you where you make a disclosure in good faith.

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. It will be the responsibility of the "Designated Officer" (see Section 3 below) to ensure that appropriate action is taken against any person who places you or your family under any duress arising from any disclosure you may make in good faith.

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 accordingly.

### **3. How to raise your concerns**

If you are considering raising a concern and wish further advice you may contact the Manx Industrial Relations Service which is independent and impartial. Any discussions held with them are confidential. The Service is available to any individual or organisation free of charge and can be contacted by telephone on 672942 (fax 687050) or by email at [iro@ir.gov.im](mailto:iro@ir.gov.im)

Alternatively you may seek advice from the UK independent charitable body "Public Concern at Work". This organisation operates a helpline and can be contacted by telephone on 0207 404 6609 or by email at [helpline@pcaw.co.uk](mailto:helpline@pcaw.co.uk) Public Concern At Work 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.

An officer of your Board, Department or Office has been appointed to act as a Designated Officer under this policy and it is to that officer that you should refer your concerns. If you do not know who your Designated Officer is, a list of designated officers can be found on the Intranet 'Whistleblowing' site. Alternatively, if you do not have access to the Intranet, then please call Treasury – Internal Audit Division on 686552 where your call will be dealt with on a confidential basis and you will be directed to your Designated Officer. You are encouraged to disclose your name to the Designated Officer whenever possible. If you wish to make an anonymous disclosure, it will be much more difficult to investigate the matter. Concerns expressed anonymously, are much less persuasive, but will be considered at the discretion of the Government. In exercising this discretion, the factors to be taken into account would include –

## **Isle of Man Government Confidential Reporting (Whistleblowing) Policy**

- the seriousness of the issues raised
- the credibility of the concern; and
- the likelihood of confirming the allegation from attributable sources

Concerns are best raised in writing, though they can also be expressed verbally through a telephone call. As much information as possible should be given, which should include –

- the background to the concern;
- names of individuals involved;
- details of dates and places where the malpractice occurred or is likely to occur;
- the reasons why you are making the disclosure, ie ground for suspicions.

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

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 wish your identity to be disclosed during the investigation. You will be reassured about protection from possible reprisals or victimisation. 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 interviewing officer and a copy given to you for your records.

All concerns will then be reported to the Accounting Officer, usually the Chief Executive of your Department, who will be responsible for the commission of any further investigation, in conjunction with the Chief Internal Auditor, as appropriate. 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. The overriding principle, which the Government will have in mind, is the public interest.

If the concern involves the Designated Officer, the matter should be reported to the Accounting Officer who will appoint an appropriate person who will carry out the duties of the Designated Officer.

If, in exceptional circumstances, the concern involves the Chief Executive, then this will be reported to the Minister or Chairman responsible, who will decide how the investigation will proceed. As in other cases, this may include an external investigation.

Where appropriate, the matters raised may –

- be investigated by management, Treasury Internal Audit Division, or through the disciplinary process;
- be referred for specialist advice;
- be referred to the police;
- be referred to the Public Auditor;
- form the subject of an independent inquiry.

## **Isle of Man Government Confidential Reporting (Whistleblowing) Policy**

Except in the case of anonymous disclosures, the Designated Officer will write to you within ten working days of a concern being raised to: -

- acknowledge that the disclosure has been received;
- indicate how the matter will be dealt with;
- give an estimate of how long it will take to give you a final response;
- advise you whether any initial enquiries have been made; and
- advise you whether further investigations will take place and if not, why not.

The amount of contact between the Designated Officer and yourself will depend on the nature of the matter raised, the potential difficulties involved and how clear the information provided is. If necessary, the Designated Officer will ask you for further information.

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 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.

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 Officer will arrange for you to receive advice about such procedures.

The Designated Officer will produce a written report to the Accounting Officer that –

- outlines the complaint;
- details the investigation process;
- gives the outcome of the investigation; and
- details recommendations where appropriate.

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.

### **5. Responsible Officer**

Each Accounting Officer has overall responsibility for the maintenance and operation of this policy within their respective organisations, and will maintain a record of concerns raised and their outcome, but in a form which does not breach the confidentiality agreement covered by this policy.

Each Accounting Officer will report to the Chief Secretary, on an annual basis, on the incidence of cases reported, and their status or outcome. The report will be in the form set out at Appendix B.



## **Isle of Man Government Confidential Reporting (Whistleblowing) Policy**

### **6. 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.

### **7. Statutory Rights**

This policy does not affect your statutory rights.

Your attention is drawn to the provisions of Part IV of the Employment Act 2006 which will afford statutory protection to a worker who makes a protected disclosure. This protection will take effect from 30th September 2007.

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 2007, as appropriate. Your attention is also drawn to the DTI guidance booklet on the statutory right entitled "A Brief Guide to Whistleblowing".

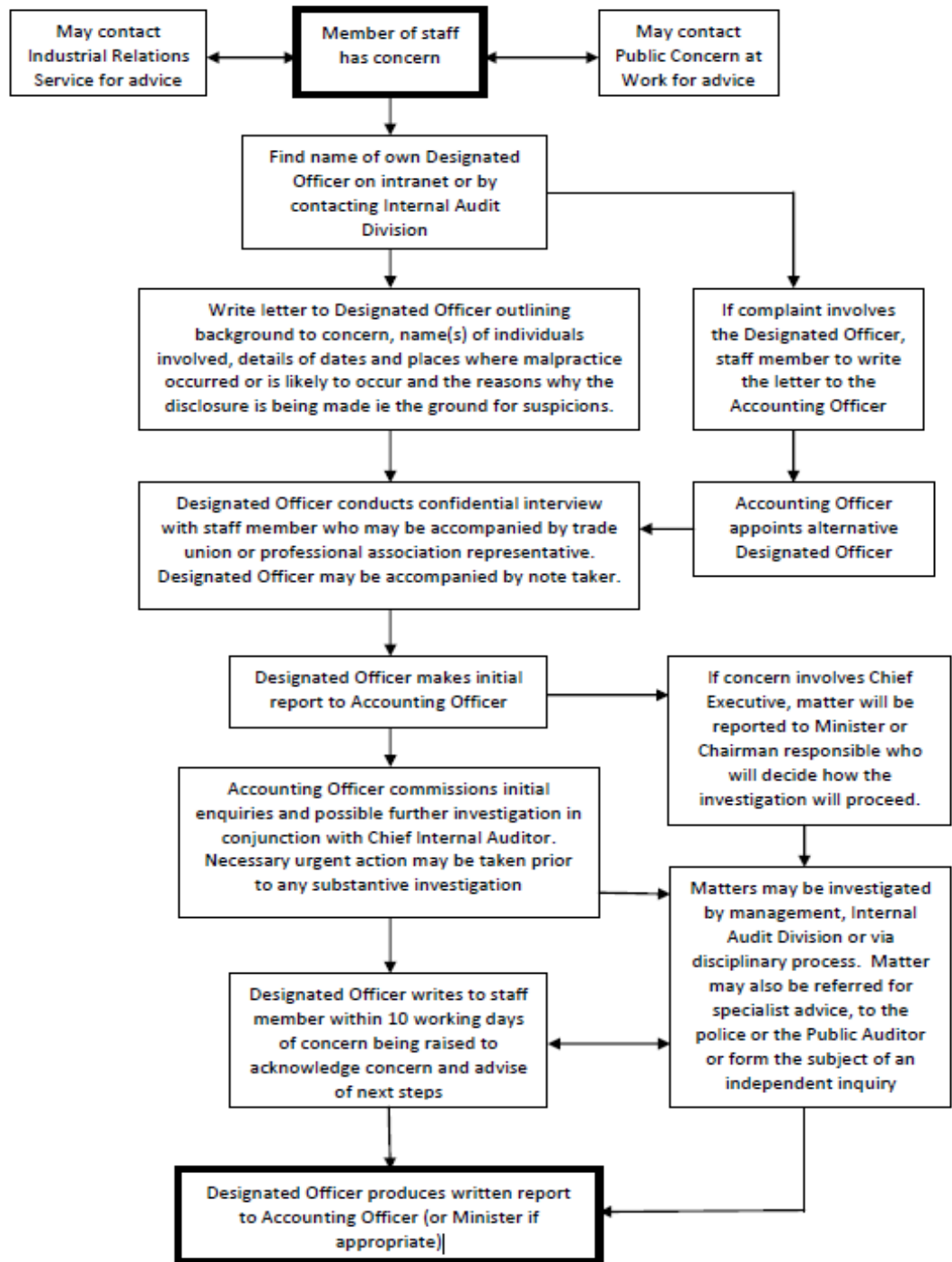
All procedures arising from this policy will be subject to the provisions of the Data Protection Act 2002.

### **8. Statutory Obligations**

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 has effect on the Isle of Man).

**Confidential Reporting (Whistleblowing) Policy**

**Process**



**GOVERNMENT WHISTLE-BLOWING**

**ANNUAL RETURN TO CHIEF SECRETARY** FOR YEAR ENDED 31 DECEMBER [     ]

**Name of Dept, Office, Board:**

**ANALYSIS OF CONCERNS RAISED DURING THE YEAR**

*Categories of Concerns	W1	W2	W3	W4	W5	W6	W7	W8	W9	W10	Total
Recorded concerns raised during [ year ]											

Categories of Concern	W1	W2	W3	W4	W5	W6	W7	W8	W9	W10	Total
Resolved at the level of:											
(1) Accounting Officer											
(2) Minister/Chairman											
Unresolved concerns											
Total											
Number of concerns which resulted in Police Action											

Form checked/approved for return:

..... (signature)

\* Please see over the page for an explanation of the Categories of Concerns

..... (print name)

..... (date)

The categories of concerns raised set out in the table are as follows:

- (W1) a criminal offence;
- (W2) fraud, bribery or corruption;
- (W3) a breach of the Government Code of Conduct;
- (W4) undue favour shown, either on a contractual matter, or to a job applicant;
- (W5) bad working practice;
- (W6) disregard for legislation, particularly in relation to health and safety in the workplace;
- (W7) damage to the environment;
- (W8) a breach of the Government Financial Regulations;
- (W9) concealment of any of the above;
- (W10) any other that does not fall within the above categories (please state on form).

## **WHISTLE-BLOWING – ANNUAL RETURN TO CHIEF SECRETARY**

The Confidential Reporting (Whistle-blowing) Policy covers all in the employment of the Government whether full-time, temporary, casual or agency workers.

It is the intention of the policy to provide safeguards for staff. The confidential reporting policy is intended to encourage and enable staff to raise serious concerns within the Government without fear or reprisal.

The Policy puts in place a standardised whistle-blowing recordal procedure which will apply to all Departments, Boards and Offices, with the annual results being reported to the Chief Secretary for analysis.

### **Accounting Officers**

Each Accounting Officer has overall responsibility for the maintenance and operation of this policy within their respective organisations, and will maintain a record of concerns raised and their outcome, but in a form which does not breach the confidentiality agreement covered by the Policy.

### **Annual Return to the Chief Secretary**

Accounting Officers are required to report to the Chief Secretary on an annual basis and the format of the return is shown in the Annex.

The return will cover the year ended at the 31st December and should be submitted to the Chief Secretary's Office by the following 31st January.

The return can be found on the Government Intranet along with the Policy and list of Designated Officers.

Returns should be posted to Ann Easthope, Senior Secretary, Chief Secretary's Office, Government Office, Douglas, IM1 3PN.

**M Williams**  
**Chief Secretary**

\* Please see over the page for an explanation of the Categories of Concerns