

# Whistleblowing Policy



# Contents

<b>Background</b> .....	3
<b>Members of the Senedd and Support Staff</b> .....	3
<b>Disclosures per the Public Interest Disclosure Act</b> .....	3
<b>Process</b> .....	4
<b>Appendix 1 – Whistleblowing Process Flowchart</b> .....	6
<b>Appendix 2 – Frequently Asked Questions:</b> .....	7

## Background

Senedd Commission (the Commission) regards the internal identification of wrongdoing and “near-misses” as an important contribution to managing corporate risk and ensuring good governance.

Staff and other workers such as contractors are encouraged to raise issues of concern about conduct or wrongdoing with their line manager, or other appropriate person (e.g. Head of Service, Director or Chief Executive and Clerk). The Commission will treat issues raised seriously and will handle these issues appropriately.

However, the Commission also recognises, that it can be difficult for employees to report concerns about colleagues or senior staff. This policy is designed to address those difficulties and to reassure employees that they can expose wrongdoing without any risk to themselves. This policy reflects the Commission’s responsibilities under the Public Interest Disclosure Act 1998 and applies to all Senedd staff, including temporary staff and contractors.

## Members of the Senedd and Support Staff

Members of the Senedd are not employed by the Commission but are independent public office holders and Members employ their staff directly rather than by the Commission therefore, different procedures for dealing with disclosures will apply.

In the case of concerns relating to Members of the Senedd or members of their staff this may involve, instead of the internal investigations set out in this Policy, referring the matter to the independent Commissioner for Standards where the concern in question relates to a ‘relevant provision’ which the Commissioner is required to investigate. Matters may also be passed to the police for investigation.

## Disclosures per the Public Interest Disclosure Act

Staff can make a disclosure where they have a concern about wrongdoing within the Commission. The matters regarded as wrongdoing include:

- crimes, for example, theft through false expense claims;
- breach of a legal obligation (regulatory, administrative, contract law or common law), for example, failure to keep personal information securely;
- miscarriage of justice;
- danger to health and safety, for example, failing to maintain safety equipment;

- damage to the environment; and
- attempts to cover up such wrongdoing.

These arrangements apply regardless of whether the matter took place in the past, the present, or is likely to take place in the future. The forms of wrongdoing reflect the scope of the Act.

Whistle-blowers making disclosure under these internal arrangements will be entitled to redress under the Act in the event that they suffer unfair discrimination or dismissal provided they make the disclosure with the reasonable belief that it is in the public interest.

## Process

An overview of the process is set out in the flow diagram in Appendix 1.

To make a disclosure; contact one of the Whistleblowing nominated officers. These are currently the Head of Governance and Assurance and the Head of Human Resources and they can be contacted in the following ways:

E-mail: [whistleblowing@senedd.wales](mailto:whistleblowing@senedd.wales)

Phone: 0300 200 6537

or write to:

Private and Confidential Whistleblowing

Head of Governance and Assurance

Floor 1A Welsh Parliament

Cardiff Bay

CF99 1SN

All communications with the Whistleblowing nominated officers will be treated in confidence, as far as the law allows. The Freedom of Information Act provides exemptions for such information.

If an employee has a protected characteristic as defined by the Equality Act 2010, and requires any reasonable adjustments to any of the requirements of this policy, they can discuss their needs with the nominated officer. The Commission will give due regard to all such requests and will make the necessary reasonable and appropriate adjustments in order to meet the requirements of the Public Sector Equality Duty.

The nominated officers will write to the notifying employee within 10 working days of the concern being brought to their attention:

- acknowledging the report or referral of the concern;
- giving an indication of how the Commission proposes to deal with the matter and;
- indicating the likely time-scale for providing a final response.

If it is impossible to give the indications within 10 working days, the letter will say so, giving reasons and the indications will be given as soon as possible thereafter.

If a decision is made not to investigate the concern, this will be confirmed in writing to the notifying employees as soon as possible and within 10 working days at the latest.

Wherever possible, the nominated officer will send notifying employees feedback when investigations are concluded, though the Commission must comply with any legal limitations on the disclosure of certain types of information. Staff should note that making false or malicious allegations through these arrangements may be a disciplinary offence.

Where the nominated officer has investigated and found a need for the Commission to address a wrongdoing, he/she will report the findings to the Chief Executive and Clerk so that appropriate management action may be taken (after consultation with other relevant senior management or Human Resources staff.)

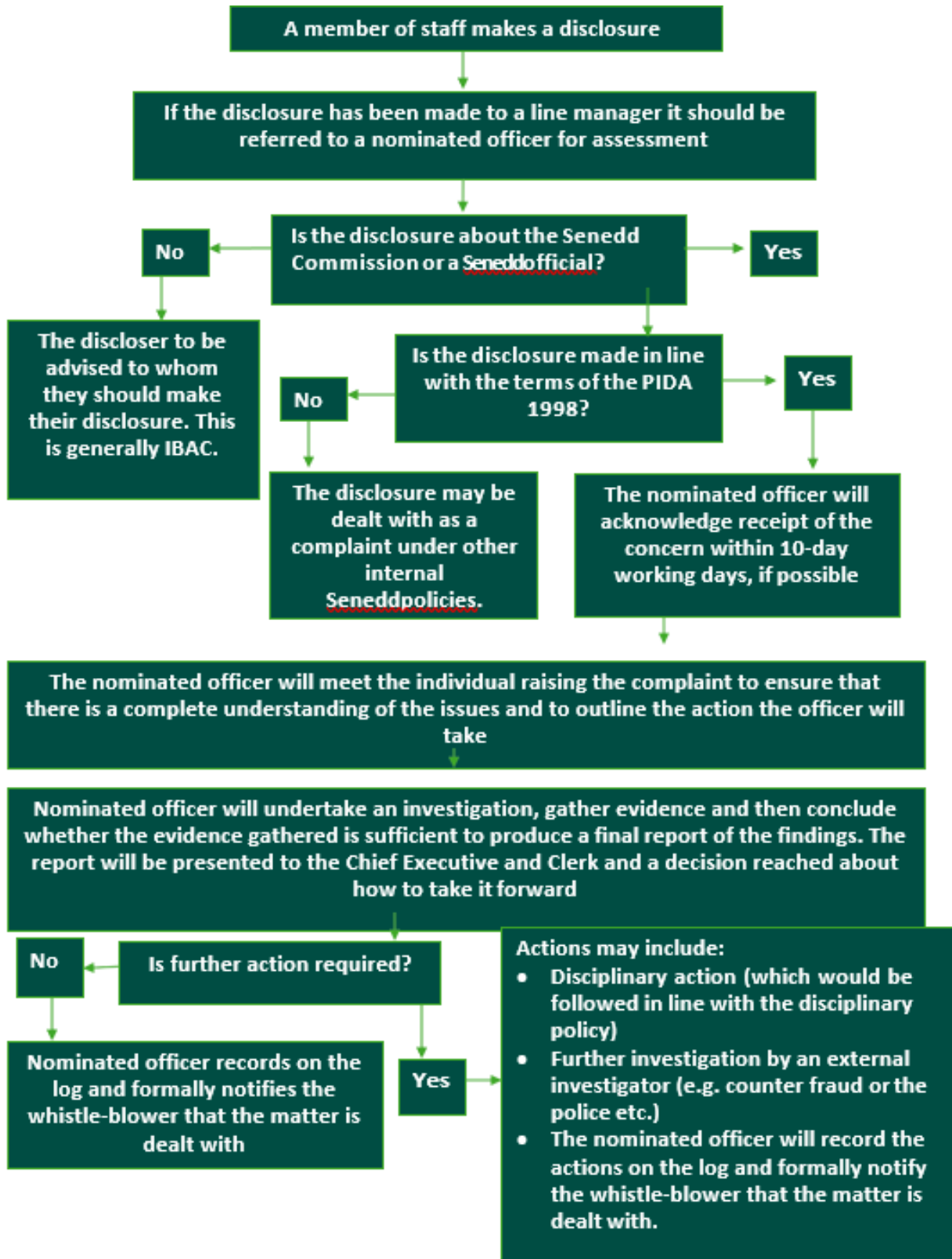
If employees think it appropriate in the circumstances, such as where their concerns relate to the whistleblowing nominated officer or a senior manager, they may raise concerns directly with the Chief Executive and Clerk.

This internal whistle-blowing arrangement does not preclude staff from making wider disclosures to persons outside the organisation. The Public Interests Disclosures Act 1998 allows disclosure to a regulator (i.e. specific bodies or person prescribed by the Regulation and this include, for example, the Auditor General for Wales).

However, staff should note that the criteria that must be met in order for the Act to apply are more extensive for external disclosures than internal disclosures. If staff are contemplating making a disclosure and are in doubt as to their legal rights, they should consider obtaining independent legal advice from an appropriately qualified adviser. Staff may wish to consult their trades union representative in order to access this or for related advice. They may also wish to contact Protect a charity specialising in providing advice for whistle-blowers, on: 020 31172520 or visit their website ,[www. protect-advice.org.uk](http://www.protect-advice.org.uk)

Frequently asked questions are included in Appendix 2 to provide further information.

## Appendix 1 – Whistleblowing Process Flowchart



## Appendix 2 – Frequently Asked Questions:

### **What is the difference between whistleblowing and making a complaint?**

In practical terms, whistleblowing occurs when a worker raises a concern about danger or illegality that affects others (their employer). The person blowing the whistle is usually not directly, personally affected by the danger or illegality. Consequently, the whistle-blower rarely has a personal interest in the outcome of any investigation into their concerns. As a result, the whistle-blower should not be expected to prove their case; rather he or she raises the concern so others can address it. This is different from a complaint. When someone complains, they are saying that they have personally been poorly treated. This poor treatment could involve a breach of their individual employment rights or bullying and the complainant is seeking redress or justice for himself or herself. The person making the complaint therefore has a vested interest in the outcome of the complaint, and, for this reason, is expected to be able to prove their case.

### **What or who can I raise a concern about?**

Concerns can be raised regarding the Senedd Commission or a member of its staff, including contractors and temporary workers. The policy does not extend to Members of the Senedd and their support staff. Separate arrangements exist for Members of the Senedd and their staff, including contacting the Commissioner for Standards in the following ways:

In writing to:

Commissioner for Standards

Welsh Parliament

Cardiff Bay

CF99 1SN

e-mail address: [standards.commissioner@senedd.wales](mailto:standards.commissioner@senedd.wales)

Direct dial telephone number: 0300 200 6113

### **Can concerns be raised confidentially or anonymously?**

Usually, the best way to raise a concern is to do so openly. Openness makes it easier for the Commission to assess the issue, work out how to investigate the matter, understand any motive and get more information. An individual raises a concern confidentially if he or she gives his or her name on the condition that it is not revealed without their consent. An individual raises a concern anonymously if he or she does not give his or her name at all. Clearly, if the Commission does not know who provided the information, it is not possible to reassure or protect them.

### **What information should a whistle-blower provide?**

Supporting evidence for the allegations, if available, is clearly helpful. However, PIDA does not require individuals to have evidence before reporting the matter, but it does say that the individual must

reasonably believe the information is substantially true. Individuals should talk to someone in their service area about their concern at the earliest opportunity rather than wait to collate any evidence.

### **What is the Public Interest Disclosure Act 1998 (PIDA)?**

The Act was introduced to provide a framework within which workers can make disclosures that are in the public interest – while enjoying protection from victimisation. A whistle-blower making a “protected disclosure” under PIDA is given statutory protection. Please note, however, that PIDA does not cover all incidences of wrongdoing in the organisation’s procedures (see what is a protected disclosure and “qualifying disclosures” below). Provided certain conditions in PIDA are satisfied, workers have a legal right not to suffer any detriment as a result of their whistleblowing and can bring a legal claim for discrimination should any detriment be suffered.

### **What is a qualifying disclosure?**

Under the PIDA, a qualifying disclosure is any disclosure of information, which – in the reasonable belief of the worker making the disclosure – tends to show that one or more of the following has been committed, is being committed or is likely to be committed:

- A criminal offence;
- A failure to comply with any legal obligation;
- A miscarriage of justice;
- The putting of someone’s health or safety in danger;
- Damage to the environment; and
- Deliberate concealment of information relating to any of the above.

It is immaterial whether the information is confidential and whether the incident occurred, occurs or would occur in the UK or elsewhere and whether the law applying to it is that of the UK or of any other country or territory. A legal obligation can include a contractual or other civil obligation as well as an obligation under criminal law.

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

Under the PIDA, a “protected disclosure” is a “qualifying disclosure”, made in accordance with the conditions in the legislation. Individuals will be able to make a protected disclosure without fear of reprisal, provided the disclosure is made in good faith.

The conditions for making a protected disclosure are less onerous if the disclosure is made internally, thereby providing the whistle-blower with a greater degree of protection.



### Wider disclosures

Wider disclosures may also be made, for example, to the police or non-prescribed regulators. PIDA provisions state that Individuals are protected under the act if they make a qualifying disclosure and:

- They make the disclosure in good faith; and,
- They reasonably believe the information disclosed, and any allegation contained in it, are substantially true; and,
- They do not make the disclosure for purposes of personal gain; and In all the circumstances of the case, it is reasonable for them to make the disclosure, and
- Any one of the following conditions are met:

At the time the disclosure is made, the individual reasonably believes they'll be subjected to a detriment by their employer if they make a disclosure to their employer or a prescribed person, or;

In a case where no person is prescribed in relation to the relevant failure, they reasonably believe it's likely that evidence relating to the relevant failure will be concealed or destroyed if they make a disclosure to their employer, or;

The concern had been raised with the employer or a prescribed regulator already.

### **Where can I obtain further information, as my question is not covered in this material?**

Should you have a whistleblowing related question that is not covered in this document please contact:

Gareth Watts, Head of Governance and Assurance on [Gareth.watts@senedd.wales](mailto:Gareth.watts@senedd.wales) or on 0300 200 6537.