

## Appendix 10: Public Interest Disclosure policy

### Introduction

1. The aim of this policy is to provide employees with a procedure for reporting any unlawful conduct at work and to reassure them that they can be confident in exposing wrongdoing without any risk to themselves.
2. All of us at one time or another may have concerns about what is happening at work. Usually these concerns can be easily resolved. However, when they are about possible unlawful conduct, fraud, risks to the public or the environment, or other malpractice, it can be difficult to know what to do.
3. Many people in this situation worry about reporting their concerns and may feel inclined to keep them to themselves, perhaps because the concern is only a suspicion or because they feel it is 'none of their business'. They may feel that they are being disloyal to colleagues, management, or to the Commission. They may also have concerns about being branded a trouble maker or about their job security or prospects.

### How to use the Commission's public interest disclosure procedure

4. The public interest disclosure procedure should be followed if employees wish to make a disclosure internally. It can be used to report a concern which threatens the interests of any person or the Commission.
5. The procedure to use if you want to raise a concern internally is as follows:
  - if you have a concern you should raise it first with your line manager. This may be done orally or in writing
  - if you do not feel able to go to your line manager for whatever reason, the matter should be raised with a programme director, an executive director, the General Counsel, or the Chief Executive
  - when you raise the concern, you should say if you want to raise the matter in confidence so that appropriate arrangements can be made
  - if these channels have been followed and you still have concerns, or if you feel that the issue is so serious that you cannot discuss it with any of the above, you can raise the concern directly with a Commissioner (Chair of Audit and Risk Committee or Senior Independent Director).
6. The Commission will not tolerate the harassment or victimisation of anyone who raises a concern under this policy. Provided you are acting in the reasonable belief that it is in the public interest, it does not matter if it later transpires that you were mistaken; you will not be subject to disciplinary action as a result. This assurance does not extend to someone who maliciously raises a matter they know is untrue. Disciplinary action may be taken against employees who deliberately make false allegations.

### Confidentiality

7. The Commission recognises that you may want to raise a concern in confidence under this policy. If you ask us to protect your identity, we will not disclose it without your consent. However, in some circumstances this may make it more difficult to fully investigate the matter. If the situation arises where we are not able to resolve the concern without revealing your identity, we will discuss with you how we can proceed.

8. If you do not tell us who you are, it will be much more difficult for us to look into the matter, protect your position, or give you feedback. Accordingly, while we will consider anonymous reports, this policy is not designed to deal with concerns raised anonymously.

### **How we will handle the matter**

9. Once you have told us of your concern, we will look into it to assess what action should be taken. You may be asked how you think the matter might best be resolved.
10. If you request a written response we will write to you summarising your concern and setting out how we propose to handle it. We will tell you who is dealing with the matter and whether your further assistance may be needed.
11. It may be decided that a formal investigation is necessary. In most cases it will be the responsibility of the Director of Human Resources or the Company Secretary to make arrangements for the matter to be investigated.
12. We will give you as much feedback as we properly can, and if requested, we will confirm our response to you in writing. However, we may not be able to tell you the precise action we take, where this would infringe a duty of confidence owed by us to someone else.
13. A register of disclosures will be maintained in confidence by the Company Secretary. The number of new disclosures and a broad indication of any action taken on disclosures will be reported regularly to the Audit and Risk Committee. No identifiable case details will be shared with the Committee.

### **If you are dissatisfied**

14. If you are unhappy with our response or with the outcome of the investigation, you may submit an appeal in writing to the Chair of the Board, within ten working days of receiving notification of the outcome. The Chair will assess the reasons for appeal and will confirm how the matter will be taken forward. The outcome of your appeal will be confirmed to you in writing.
15. If you remain dissatisfied with our response or with the outcome of the appeal, you can raise the matter with a Department of Culture, Media and Sport (DCMS) Director. While we cannot guarantee that we will respond to all concerns in the way that you might wish, we will handle the matter fairly and properly.

### **Public Interest Disclosure Act 1998**

15. The Public Interest Disclosure Act 1998 (PIDA) enables workers in the public and private sectors who 'blow the whistle' to complain to an employment tribunal if they are dismissed or suffer any other form of detriment for doing so.

### **What type of disclosure qualifies for protection?**

16. A disclosure may qualify for protection (a qualifying disclosure) if you reasonably believe that it tends to show one or more of the following has occurred, is occurring, or is likely to occur:
  - a criminal offence (for example theft and fraud)
  - a failure to comply with a legal obligation
  - a miscarriage of justice

- endangering of an individual's health and safety
  - damage to the environment
  - deliberate concealment of information tending to show any of the above.
17. A qualifying disclosure will be protected under the PIDA when it is made in the reasonable belief that it is in the public interest:
- to your employer
  - to a body or person other than your employer, provided that you reasonably believe that the relevant failure relates solely or mainly to the conduct of that body or person, or relates to a matter over which the body or person has legal responsibility
  - to a legal adviser in the course of obtaining legal advice
  - to a Minister of the Crown.
  - to a prescribed body or person, provided that you reasonably believe that the relevant failing falls within matters prescribed to that body or person and that the information is substantially true
  - for a list of prescribed persons, please refer to the section on 'Other sources of information' below.
18. The PIDA does not introduce a general protection for those making disclosures in all circumstances. Individuals who make disclosures will not be protected by the PIDA if they commit an offence by making the disclosure (for example breach of the Official Secrets Act).

### **Independent advice**

19. If after reading this policy you are still unsure whether to use this procedure, you may obtain independent legal advice through Public Concern at Work. This is an independent charity and is a leading authority on public interest disclosures. They can be contacted on 0207 404 6609 and at [www.pcaw.org.uk](http://www.pcaw.org.uk).
20. A qualifying disclosure is protected if you make it in the course of obtaining legal advice. You should seek an appointment with a reputable legal adviser.

### **Other sources of information**

21. Further information is contained within the [Guide to the Public Interest Disclosure Act](#) on the website of Public Concern at Work.
22. If you require any further information about this policy, please contact the Director of Human Resources.
23. The Board champion for this policy is the Chair of the Audit and Risk Committee.