



Transport for
Greater Manchester

WHISTLEBLOWING POLICY

Policy and Guidance for Whistleblowers

| Document Control | |
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1. Introduction – TfGM Commitment

- 1.1 TfGM is committed both to the highest possible standards of honesty, openness and accountability and will not tolerate malpractice or wrongdoing.
- 1.2 This Policy is a key element of TfGM’s governance arrangements designed to allow employees to raise concerns concerning any wrongdoing involving the actions of TfGM employees, contractors or any aspect of TfGM’s activities. As such, this policy which seeks to protect those who raise concerns and ensure those concerns are fully investigated.
- 1.3 This Policy sets out how TfGM will receive, review and respond to concerns raised by those covered by the policy and the scope of the Public Interest Disclosure Act 1998 (PIDA).

2. Policy Scope and Aims

Scope

- 2.1 This Policy covers all concerns raised by TfGM employees, both permanent and temporary, and also contractors, consultants, delivery partners etc contracted to work for TfGM. Where this Policy refers to “employees”, this means all the categories aforementioned.
- 2.2 This Policy also extends to any individual who wishes to raise an allegation of perceived wrongdoing such as members of the public, customers and service users. However, these persons are not protected under the PIDA.
- 2.3 This Policy is not to be used for concerns which are able to be dealt with under other TfGM Policies and Procedures which enable employees to lodge a grievance, claim of harassment or other complaint relating to their conditions of employment and which have no related public interest element. This Policy covers concerns falling outside the scope of existing HR Procedures. If, however, concerns raised through these procedures indicate wrongdoing then these will be investigated with reference to the Whistleblowing procedures and process.
- 2.4 Where concerns raised relate to money laundering or proceeds of crime offences these should be reported to the Money Laundering Reporting Officer in line with the TfGM Anti-Money Laundering Policy.

Aims

- 2.5 This policy aims to:
 - provide for a culture of zero tolerance of any acts of fraud and corruption and other wrongdoing and to deter such acts;

- encourage employees and others with serious concerns about any aspect of TfGM’s activities to feel confident to come forward and voice those concerns;
- ensure concerns are raised at an early stage, in the right way, so that critical information reaches the appropriate persons in TfGM who need to know and who are able to take immediate action;
- provide the necessary safeguards to reassure those who raise concerns in the public interest and not maliciously or for personal gain, that they can do so without fear of reprisals or victimisation or disciplinary action, regardless of whether these are subsequently proven;
- set out how TfGM will respond to individuals raising concerns and enable them to get feedback on any action taken;
- ensure that those raising concerns know what to do in the event they are not satisfied with actions taken and outcome reached.

3 What is Whistleblowing?

- 3.1 Whistleblowing is the confidential disclosure by an employee or worker of any concerns relating to a perceived wrongdoing involving any aspect of the TfGM’s work or those who work for TfGM.
- 3.2 The whistleblowing process assists individuals, who believe they have discovered a matter of malpractice, impropriety or wrongdoing, to raise a concern, in order that this can be addressed. The Public Interest Disclosure Act is known as the whistleblowing law and is designed to encourage and enable employees and workers to “speak out” and to report suspected wrongdoing at work. This is commonly known as “blowing the whistle”.
- 3.3 The PIDA legally protects employees and workers from any detriment from their employer or colleagues that arises as a result of making a “protected disclosure” (a qualifying disclosure) in the public interest. This includes protection from harassment, victimisation or dismissal by their employer. A qualifying disclosure means any disclosure of information made to TfGM or other prescribed person, which in the reasonable belief of the individual making the disclosure, is made in the public interest and demonstrates that one or more of the following has occurred:
- (i) a criminal offence has been committed, is being committed or is likely to be committed;
 - (ii) a person has failed, is failing or is likely to fail to comply with any legal obligation to which they are subject;
 - (iii) a miscarriage of justice has occurred, is occurring or is likely to occur;

- (iv) the health or safety of any individual has been, is being or is likely to be endangered;
 - (v) the environment has been, is being or is likely to be damaged by an act performed by TfGM or its representatives; or
 - (vi) information tending to show any matter falling within any one of the preceding paragraphs has been, is being or is likely to be deliberately concealed.
- 3.4 A disclosure of information is not a qualifying disclosure if the person making the disclosure commits an offence by making it.
- 3.5 A prescribed person is someone identified in regulations who is independent of the employee's organisation, but usually has an authoritative relationship with the organisation, such as a regulatory or legislative body.
- 3.6 Whilst protection under the PIDA covers employees and most workers it is not extended to partners, non-executive directors, volunteers or the self-employed. However, the principles outlined in this policy, as far as they can be, will be applied to whistleblowing allegations received from sources other than employees and other's contracted to work for TfGM. As with internally reported cases, particular consideration needs to be given to matters of confidentiality.

4 Safeguards

- 4.1 In investigating concerns raised under this Whistleblowing Policy, the following safeguards are built into the processes and procedures followed to ensure that those raising concerns receive the legal protection under the PIDA.

Confidentiality and Anonymity

The identity of the individual raising a concern under the Whistleblowing Policy will be protected as far as possible.

Records of a Whistleblower's concerns and the investigation into them are stored securely with access restricted to specific officers assigned to examine the concerns raised. Wherever possible the identity of the Whistleblower will not be revealed as part of an investigation. Should this not be possible the individual will be notified and consent will be sought beforehand.

TfGM cannot guarantee to protect the identity of an employee raising allegations of serious wrongdoing where a criminal offence has been committed, and legal/prosecution action results from raising the concern. In some cases the whistleblower may have to act as a witness and/or provide

evidence in relation to offences which are referred to the Police. Where this occurs, the individual will be supported throughout the process.

Investigation progress reports will be anonymised.

Harassment and Victimisation

TfGM acknowledges that the decision to report a concern can be a difficult one for a whistleblower to take, not least because of the fear of reprisal from those responsible for the malpractice. It is unlawful for the Whistleblower to suffer victimisation or harassment for whistleblowing.

TfGM will not tolerate harassment or victimisation against a whistleblower who has raised a genuine concern under the whistleblowing policy.

Victimisation may include an attempt to identify the person raising the concern. Any employee who victimises a whistleblower will be subject to disciplinary action which may lead to dismissal. An individual may also be personally liable for treating a colleague detrimentally on the grounds that they have raised public interest concerns.

Senior TfGM Officers should monitor how whistleblowers are subsequently treated after raising a concern. They should ensure that any harassment or victimisation is dealt with under the normal disciplinary process.

Any employee who feels they have been victimised or suffered detriment as a result of raising a concern should report their concerns to the Director of People.

- 4.2 In addition, the following safeguards ensure the Policy is used for the proper purposes under the PIDA and action is taken where any abuse of the Policy occurs.

Malicious and Untrue Allegations

While encouraging employees to report concerns, TfGM must guard against claims which are malicious. This is because of the risk of claims made to deliberately damage the reputation of other employees, or TfGM as a whole and not least because the cost of investigation is high.

If an employee makes an allegation which they reasonably believe is a whistleblowing concern, but it is not confirmed by the investigation, no action will be considered or taken against them. However, if an employee makes false, malicious or vexatious allegations this will be treated as a serious disciplinary matter and disciplinary action taken. The PIDA only provides protection from dismissal or detriment if the employee reasonably believes their concern was raised in the public interest.

Misuse of the Policy

This Policy is not designed to allow:

- (i) an individual who has acted inappropriately to escape sanction by highlighting any malpractices he or she has been involved in;

- (ii) Employment protection in relation to a redundancy situation or any pre-existing disciplinary issues as a result of raising a concern.
- (iii) An individual to raise a concern for some private or purely personal motive.

5 Raising a Concern

Who Can Raise a Concern

- 5.1 Concerns may be raised by full and part time employees, permanent and temporary employees, contractors, consultants and Delivery Partner staff. These individuals will be protected under the TfGM Whistleblowing Policy in accordance with the provisions of the PIDA
- 5.2 Concerns may also be raised by member of public, supplier, customers and service users. However, protection under the PIDA does not extend to these persons.

How and When to Raise a Concern

- 5.3 Concerns should ideally be raised in writing, however, concerns made verbally also qualify as Whistleblowing under this Policy.
- 5.4 As far as possible the individual raising the concern should provide sufficient details to substantiate the concern and enable initial investigation to take place, including:
 - (i) the name, role title of the individual who is the subject of the concerns being raised;
 - (ii) full details of the concern and wrongdoing;
 - (iii) evidence in support of the concern and wrongdoing;
 - (iv) their own name, role title and contact details (unless they wish to remain anonymous). Contact details will enable any further information to be obtained if this is required. ons as to why the individual is concerned.
 - (v) Indicating whether or not a protected disclosure.

The Confidential Reporting form in Appendix 1 of this Policy will assist in providing the necessary information to enable the concerns to be dealt with expediently.

- 5.5 Concerns should be raised as soon as there is a reasonable suspicion of wrongdoing as this will make it easier to investigate and reach an outcome. Individuals should not investigate themselves, where the concern raised is

genuine, no adverse consequences will arise if the Whistleblower is found to be mistaken.

Who to Raise a Concern To

- 5.6 Concerns should normally be raised initially with the line manager. However, depending on the seriousness and sensitivity of the matter, or in circumstances where the concern involves the line manager, the concern may also be reported to one of the following:
- TfGM Head of Audit and Assurance
 - TfGM Head of Legal
 - TfGM Chief Executive
 - TfGM Managing Director
- 5.7 All concerns raised shall be notified to Audit and Assurance who will log them in a central record.
- 5.8 Any concerns indicating wrongdoing by a member of the Audit and Assurance team will immediately be referred to the Head of Legal who will make appropriate arrangements for an independent investigation to be carried out. Any concerns relating to the conduct of both the Heads of Audit and Assurance and Legal shall be dealt with by the Chief Executive. In either of these circumstances the ARAC Chair shall be notified.
- 5.9 Exceptionally, where a concern is about the Chief Executive Officer, then the Senior Non-Executive Director shall be informed
- 5.10 As above, concerns under the Whistleblowing Policy may be reported as follows:

Audit and Assurance

- Email to internal.audit@tfgm.com
- In writing to:
Sarah Horseman
Confidential
Head of Audit and Assurance
Transport for Greater Manchester
2 Piccadilly Place

Manchester
M1 3BG

TfGM Head of Legal

- Email to kath.wilson@tfgm.com

TfGM Managing Director

- Email to steve.warrener@tfgm.com

TfGM Chief Executive Officer

- Email to eamonn.boylan@tfgm.com

TfGM employees may also raise concerns to their line manager if they feel confident in doing so. The manager must then adhere to the confidentiality and anonymity safeguards of Section 4 above.

For monitoring purposes, all Whistleblowing concerns reported to a manager must then be notified immediately to Internal Audit, either by the manager or the Whistleblower.

- 5.11 Whilst employees are encouraged to raise concerns internally if they do not feel comfortable in doing so, then they make a protected disclosure to a prescribed person or body on the list advocated by HM Government below:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/183340/11-641-blowing-the-whistle-to-a-prescribed-person.pdf

- 5.12 Before raising a concern externally the employee may first wish to discuss the matter confidentially with a manager, Trade Union representative, solicitor or professional body to seek advice on how to proceed. Doing this may help them to assess how justified their concern is, and if they still wish to proceed with an external disclosure, the most appropriate and effective way to report it so as to allow the most effective investigation to take place whilst providing the employee with the necessary protection under the PIDA.
- 5.13 An employee raising a concern externally will be protected under the PIDA if they:
- (i) Reasonably believe that the concern they are raising is in the public interest;
 - (ii) Reasonably believe that the facts and information provided are substantially true; and
 - (iii) The substance of the concern falls within the remit of the prescribed person or body.

6 How and When TfGM Will Respond to a Concern

6.1 TfGM will always respond to a concern, however, investigating a concern is not the same as either accepting or rejecting it. There may be a range of issues raised under this Policy and, depending upon the nature of the concern, the most appropriate TfGM senior officer to investigate it will be determined. Those concerns that fall within the scope of other TfGM Policies such as Dignity at Work, Harassment and Bullying will normally be dealt with under those policies arrangements.

6.2 In order to protect individuals and those that are the subject of a concern, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. If appropriate, the matter may be referred to the Police or other appropriate body as required.

Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required, this will be taken before any investigation is commenced.

6.3 TfGM will formally respond to a Whistleblower within 5 working days acknowledging receipt of a concern. Within a further 10 working days TfGM will communicate to the Whistleblower the following:

- (i) How TfGM proposes to deal with the concern and the Policy under which it will be handled.
- (ii) Estimating the period of time it will take to provide a response on the outcome.
- (iii) Arrangements for Confidentiality.
- (iv) Details of any initial enquiries which may have been made.
- (vi) The ongoing TfGM point of contact for the Whistleblower
- (vii) If no action is planned, why not.

Prior to responding to the Whistleblower, all proposed action shall be notified to and agreed with the Head of Audit and Assurance on behalf of the Managing Director and in consultation with the Head of Legal and the relevant Director.

6.4 Further information may need to be requested from the Whistleblower depending on the nature of the concerns, and clarity of information provided.

6.5 At any meeting arranged to discuss concerns, the Whistleblower has the right to be accompanied by a person of their choosing as long as that person is not involved in the area to which the concern relates.

- 6.6 TfGM will do what it lawfully can to minimise any difficulties that a Whistleblower may experience as a result of raising a concern. For example, if an employee is required to give evidence in criminal or disciplinary proceedings advice will be provided in respect of the process and what is expected of them.

Anonymous Concerns

- 6.7 TfGM recognise that there may be circumstances where a Whistleblower may be worried about being identified when reporting a concern about their employer or fellow employees. TfGM will treat anonymous concerns seriously but encourages the individual to provide their name when reporting a concern as anonymous concerns are more difficult to investigate, and harder to substantiate.

Nevertheless, concerns raised anonymously will always be considered. Any subsequent actions will however be at the discretion of the Head of Audit and Assurance in consultation with the Managing Director and the senior responsible officer. Taking further action in response to the anonymous concern will depend on:

- (i) the seriousness of the issues raised;
- (ii) the credibility of the concern; and
- (iii) the likelihood of confirming the allegations from attributable sources.

Investigating the Concern

- 6.8 The investigation will be conducted in accordance with the Policy relating to the nature of the concern. Any concern raised relating to Fraud and Corruption will be investigated in accordance with the TfGM Fraud Response Procedures.
- 6.9 The Whistleblower will be advised of progress where investigations are of significant duration due to their complexity, otherwise the Whistleblower will just be advised of the outcome following completion of the investigation. In the case of concerns raised anonymously it is not possible to keep the Whistleblower informed of progress or the outcome.

7. Outcomes

- 7.1 Subject to legal constraints TfGM will inform the Whistleblower of the outcome of the investigation of the concern raised to provide assurance that the concern has been treated seriously and properly addressed. Feedback to the Whistleblower may not include details of all outcomes, for instance in cases where an individual's rights to confidentiality could be breached such as where disciplinary action against an employee has been taken. This will normally be done within one month of the investigations's completion.
- 7.2 Where an investigation has taken place a report must be produced by the Investigating Officer and circulated to:
- Chief Executive Officer
 - Managing Director
 - Functional Director
 - Head of Audit and Assurance
 - Head of Legal
 - Chair of ARAC
- 7.3 Reports should conclude on whether concerns raised are fully or partially upheld or alternatively having no substance and whether any disciplinary action is necessary in response to wrongdoing and/or breaches of TfGM's constitution and governance. Reports should also set out any control improvements and the actions required to address them.
- 7.4 In circumstances where the whistleblower is not satisfied with the outcome of the investigation, TfGM recognises the lawful rights of its employees to make disclosures to a prescribed person (see 5.11). If this course of action is taken, the whistleblower should inform TfGM and this be made known to the CEO.
- 7.5 Outcomes of matters arising from whistleblowing cases will be considered for publication on TfGM's Intranet as part of the ongoing promotion of Counter Fraud and Corruption, although the confidentiality of any individual and disciplinary processes will be maintained.

8. Complying with Related Legislation

- 8.1 TfGM will always seek to protect the identity of a Whistleblower at all times following the individual first raising a concern through to the completion of investigation and reporting of outcomes. In circumstances where a request is received under the Freedom of Information Act that responding to would necessitate the disclosure of the identity of the Whistleblower then TfGM would first contact the Whistleblower to ascertain their wishes as to any disclosure and would then seek to comply with those wishes. The Freedom of Information Act contains exemptions which can be used to maintain the anonymity of the Whistleblower if the Whistleblower desires that their identity not be disclosed. This principle also applies to any individual who maybe the subject of a concern.
- 8.2 When processing personal data as part of a whistleblowing investigation, TfGM will take all necessary precautions to protect such data and not to share it more widely than is necessary as part of the investigation. The General Data Protection Regulations and the Data Protection Act 2018 will be applied to all aspects of a Whistleblowing investigation.
- 8.3 To protect the rights of individuals under investigation, all investigation activity will be conducted so as to be compliant with the related provisions of the Human Rights Act 1998, the Equality Act 2010, and TfGM's Corporate Diversity and Inclusion Policy

9. Recording and Monitoring of Whistleblowing Concerns

- 9.1 Audit and Assurance should be notified of all Whistleblowing Concerns received. Each concern shall be logged by Audit and Assurance and a case reference allocated. Investigations carried by senior managers shall be monitored by Audit and Assurance to ensure an outcome is arrived at. Senior managers are required to inform Internal Audit of the outcome of an investigation, providing a copy of the report to the Head of Audit and Assurance. The safeguarding principles of this policy will be applied at all times to information received and retained.
- 9.2 The investigating officer should use the Whistleblowing Case Record (see Appendix 3) to record the salient details of the concern raised, the investigation carried out and the outcomes of the investigation.
- 9.3 The records held by Audit and Assurance will be used to review the effectiveness of this Policy and to report annually to ARAC on this point together with providing statistics on the number and type of Whistleblowing concerns received and the outcomes.

10 Training and Awareness

- 10.1 Directors and Heads of Service are responsible for ensuring employees are made aware of this Policy and any training needs which may arise from this policy are fulfilled. The TfGM induction process shall also ensure that new employees complete the Whistleblowing e learning.
- 10.2 All employees covered under this Policy's scope shall ensure that they read and understand this Policy and complete the Whistleblowing e learning.

To assist a Whistleblower in reporting a concern the form below should be used to enable the appropriate information to be gathered and the matter dealt with expediently. The form should be emailed to one of the persons in Section 5.10. If telephoning, the same information should be supplied verbally.

| | |
|----|--|
| 1. | Please describe the nature of your concern |
| 2. | Please provide all the background information relevant to your concern including key dates, people involved, organisations involved. |
| 3. | Have you reported the concern to any other person or organisation? If you have, please provide the details of this |
| 4. | What are the reasons for the concern |
| 5. | How do you think the matter should be resolved? |
| 6. | Do you have any personal interest in the matter? |

| | |
|------------------------------------|---|
| Person raising the concern: | Form completed by (if not the person raising the concern): |
| Name | Name |
| | |
| Employee Number | Employee Number |
| | |
| Role Title | Role Title |
| | |
| Signed | Signed |
| | |
| Date | Date |
| | |

| |
|--------------------------|
| Form Received By: |
| Name |
| |
| Employee Number |
| |
| Role Title |
| |
| Signed |
| |
| Date |
| |

CONFIDENTIAL
Transport for Greater Manchester
WHISTLEBLOWING CASE RECORD

| | |
|--|--|
| Date when Whistleblowing Concern received | |
| Name, Role title and contact details of TfGM Officer receiving the concern | |
| Details of reporting media (Email / Postal/ Telephone Call. Was Confidential Reporting Form used and received? | |
| Name of Directorate, Function, Business Area to whom the concern relates. | |
| Name and role title of employee raising concern; or Was anonymity requested? . | |
| Was confidentiality requested and /or explained? | |
| Details of concern raised | |
| Has formal acknowledgement been provided in-line with the Whistleblowing Policy? (acknowledgement within 5 working days and update within a further working 10 days) | |
| Date received by Internal Audit and name of person receiving. | |
| Name and role title of Investigating Officer | |
| Summary of investigation outcome (concern substantiated, concern dismissed, concern malicious) | |

| | |
|--|--|
| Details of actions agreed and any control improvements necessary. | |
| Date of notification of outcome to Whistleblower and how informed (email, letter, verbally). | |
| Documents storage reference (network folder, case reference etc) | |

Completed By:

Name

Role title