



WHISTLEBLOWING POLICY

<u>Document Control</u>	
Version Number	1.0
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Date Approved	5 th October 2021
Approved By	Sian Curley, Chief Executive
Superseded Version	N/A
Date of Next Review	October 2023
Equality Impact Assessment Completed/Reviewed	Yes
This document is also available in Welsh	

<u>Version Control</u>			
Version	Date	Amended By	Reason for Issue/Amendment
1.0	05/10/21	Joanne Regan, Head of Assurance and Compliance	Creation of standalone whistleblowing policy and anti-fraud & corruption policy.
1.1	06/12/21	Joanne Regan, Head of Assurance and Compliance	Updated to include Safecall number and to ensure consistency with the terminology used. Updated OPCC logo.

OFFICE OF THE POLICE AND CRIME COMMISSIONER
WHISTLEBLOWING POLICY

1. Introduction

- 1.1 The Office of the Police and Crime Commissioner (OPCC) is committed to the highest possible standards of openness, honesty and accountability. In line with that commitment, we expect anyone who has concerns (as detailed at 4.2) about any aspect of the work within the OPCC or Gwent Police to come forward and raise those concerns.

2. Aim

- 2.1 The aim of this policy is to:
- Encourage staff to question and act upon reasonably held concerns and feel confident raising them.
 - Ensure any concerns raised will be properly investigated in a professional and confidential manner.
 - Provide reassurance that staff will be protected from reprisals or victimisation for raising concerns in good faith and that their confidentiality will be respected.
 - Encourage a culture of openness.
- 2.2 It is intended to cover serious concerns about malpractice that fall outside the scope of other procedures and applies to all staff within the OPCC, including volunteers.
- 2.3 This is not a policy to be used in order to question financial decisions or business strategy, nor should it be used to raise matters which would normally be considered under a human resources grievance procedure (for example harassment, bullying or discrimination) or are already the subject of a disciplinary procedure.
- 2.4 Everyone has a responsibility to report any concerns as soon as they become aware of them. If there is uncertainty about whether something is within scope of this policy, it is preferable that any concerns are reported rather than kept to oneself.
- 2.5 This policy also acknowledges that OPCC staff work closely with Gwent Police and may raise concerns of perceived malpractice within Gwent Police. If a disclosure is made that relates to Gwent Police, the Chief Executive will need to discuss with either the Deputy Chief Constable or Head of Professional Standards, how this information is then shared with Gwent Police in order for the concerns raised to be progressed.

3. **Terms and Definitions**

Term	Definition
Whistleblower	A whistleblower is a worker who reports certain types of wrongdoing. This will usually be something seen at work - though not always.

4. **Policy**

What type of disclosures count as whistleblowing?

4.1 The Public Interest Disclosure Act 1998 identified specific categories, referred to as 'qualifying disclosures' which are subject to special protection under law.

4.2 In order for a disclosure to be a qualifying disclosure, the worker who makes a disclosure must reasonably believe two things:

a) That they are acting in the public interest. This means that personal grievances and complaints are not usually covered by whistleblowing law.

b) That the disclosure tends to show past, present or likely future wrongdoing falling into one or more of the following categories:

- i. Criminal offences (this may include, for example, types of financial impropriety such as fraud)
- ii. failure to comply with an obligation set out in law
- iii. miscarriages of justice
- iv. endangering of someone's health and safety
- v. damage to the environment
- vi. the concealing of wrongdoing in the above categories

Reporting concerns internally

4.3 Wherever possible, it is recommended concerns are reported through conventional internal routes and that the person reporting identifies themselves as the person raising concerns. This makes it easier to investigate and act upon the information provided quickly and effectively and to provide feedback about the action taken.

4.4 When a concern is raised, the OPCC will treat the information confidentially and ensure it is only shared, with those who have a need to know (this may include Gwent Police and other outside bodies). If the staff member making the report is concerned that their identity as the reporting person will become known, this should be raised with the person the report is being made to at the earliest opportunity, explaining why the staff member is apprehensive about their identity being known. This will enable the appropriate steps to be taken to address the concern while supporting their personal position.

- 4.5 There may be times where, due to the nature of the concern raised, it is evident who the source of the information is, for example; where only a small number of people are aware of the issue. If this is the case, the OPCC will make every effort to maintain confidentiality and provide necessary support. Once a report has been made, it is important for the staff member reporting their concerns to abide by any advice provided in order to protect their identity.
- 4.6 There are channels through which concerns can be raised anonymously; however, this can make it more difficult to investigate the matters reported or to provide feedback to the staff member making the report.
- 4.7 The OPCC, jointly with Gwent Police, contracts the anonymous reporting facility to 'Safecall', which is a completely independent external company. The number for Safecall is 0800 915 1571 or you can report online at [Report An Incident & Update \(safecall.co.uk\)](https://safecall.co.uk).
- 4.8 Any concerns or disclosures should be raised with one of the following:
- Line manager (these concerns will need to be reported immediately to the Chief Executive and/or Chief Finance Officer)
 - The Chief Executive
 - The Chief Finance Officer
 - Safecall
 - The Professional Standards Department of Gwent Police

Reporting concerns externally

- 4.9 This policy provides an internal mechanism for reporting, investigating and remedying any wrongdoing in the workplace. In most cases an external avenue will not need to be utilised by a staff member wishing to report their concerns. Reporting externally should be a last resort; the OPCC has robust mechanisms in place to deal with concerns and staff are expected to use these existing channels.
- 4.10 However, the OPCC recognises that there may be circumstances where staff may feel they wish to report matters to outside bodies.
- 4.11 A qualifying disclosure made by a staff member to an external body, will be protected if the following tests are met:
- a) The member reasonably believes that the information disclosed, and any allegation contained in it, are substantially true;
 - b) They do not make the disclosure for personal gain;

- c) One of the following applies:
 - i) At the time they make the disclosure, the staff member reasonably believes that they will be subjected to a detriment by the OPCC if they make a disclosure in one of the other ways described above;
 - ii) That the staff member has previously made a disclosure of substantially the same information to one of the other persons described above;
 - d) In all the circumstances of the case, it is reasonable for the staff member to make the disclosure.
- 4.12 If the disclosure relates to a matter of an exceptionally serious nature, the test under (c) does not have to be met.
- 4.13 The external organisations that can be approached to raise a concern are as follows:
- A staff association
 - Internal audit
 - Audit Wales
 - Any other relevant professional or regulatory bodies, such as Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services or the Independent Office for Police Conduct.

Identifying and acting on whistleblowing disclosures

- 4.14 If a concern is reported by a member of staff the matter will be taken seriously and reassurance and support provided to the staff member who has raised the concern that the disclosure will be dealt with confidentially where possible.
- 4.15 If the disclosure is made to anyone other than the Chief Executive or Chief Finance Officer, once it has been recorded, it must be raised immediately with them. A decision will be taken as to whether or not the issues raised amount to whistleblowing or whether they amount to a personal grievance and should be dealt with under a different procedure, for example the Fairness at Work procedure.
- 4.16 Advice on which process should be applied to specific disclosures can be obtained from Joint Legal Services.

False allegations made by whistleblowers

- 4.17 Making a deliberately false allegation against another member of staff (including officers and staff working for Gwent Police) is dishonest and could amount to perverting the course of justice where it relates to a criminal matter.
- 4.18 A protected disclosure must, in the reasonable belief of the whistleblower, tend to show that misconduct or malpractice has occurred. Deliberately false

allegations will never be protected disclosures and may be assessed as amounting to gross misconduct.

Immunity from proceedings

- 4.19 The actions of a staff member in making a protected disclosure should not result in disciplinary action being taken against them.
- 4.20 This does not confer complete immunity from disciplinary action in respect of any other aspect of the whistleblower's behaviour, for example if they were involved in the misconduct they reported, or any other misconduct.
- 4.21 Such immunity may be appropriate in some circumstances but the length of time that has passed, and any harm caused by not reporting at the time, would need to be considered.

Reprisals against whistleblowers

- 4.22 A staff member who knowingly takes action as a reprisal against someone who has made a protected disclosure, or their family members or other close associates, should be considered to have breached the staff Code of Conduct.
- 4.23 Such a breach would constitute a recordable conduct matter. The protected disclosure must have been made before the reprisal took place and the person involved must have known about the protected disclosure and acted deliberately to cause detriment to the member of staff who made the disclosure.
- 4.24 A reprisal against a whistleblower could take the form of a deliberately false allegation, or a level of disciplinary action that is clearly more serious than that taken in relation to others who commit the same misconduct. Reprisals could also be in the form of intimidation, bullying, isolation, personnel matters such as staff moves and promotions and any other adverse treatment.
- 4.25 This should not prohibit allegations made against whistleblowers from being investigated. However, where a staff member who has made a protected disclosure is subsequently subject to a contested allegation, the possibility of a reprisal should be part of the consideration prior to progression to any disciplinary proceedings, once all the evidence is available.
- 4.26 Counter allegations may make it difficult to distinguish between a staff member reporting or addressing wrongdoing, and an allegation or action taken as a reprisal. Further investigation may be required when considering such cases to determine whether there is evidence of a clearly aggrieved party and perpetrator. It will not always be the case that the first to report a reprisal is the victim.

- 4.27 There may be some reprisals that would constitute a criminal offence. This could be due to the seriousness of the reprisal or where a whistleblower is a witness to a criminal matter, and an attempt is made to intimidate them.
- 4.28 An allegation of a reprisal against a whistleblower should be assessed and where justified, recorded and investigated in the same way as any other conduct matter, based on the available evidence.

Whistleblower evidence at public hearings

- 4.29 Staff who report misconduct may subsequently be required to give evidence at misconduct hearings held in public if the reported matter relates to an officer of Gwent Police. It must be noted that disciplinary hearings against police officers are normally held in public, disciplinary proceedings against police staff are held in private.
- 4.30 Police Regulations give the person chairing or conducting misconduct proceedings a broad discretion to exclude any person (including the media) from all or part of the proceedings. The person chairing or conducting the proceedings also has a duty under the regulations to require public attendees (including the media) to withdraw where evidence will be given that should not be disclosed to such attendees under the harm test set out in Police Regulations.
- 4.31 The person chairing or conducting the proceedings should consider whether the harm test applies and, if not, whether it may be necessary to use the discretionary power in relation to preventing the disclosure of information about the identity of a police witness. This consideration should take place for all police witnesses, but may be particularly relevant in certain circumstances, for example if a police witness is operating in a covert or firearms role where their identity should not be made public, or if they are the victim of the alleged misconduct and it is sexual in nature.
- 4.32 Therefore, whistleblowers should be reassured that careful consideration would be given to their whistleblowing status and the protection that should be afforded to them should they be required to give evidence at proceedings.

5. Training

- 5.1 Training in relation to whistleblowing will be provided to the Chief Executive who is also the Monitoring Officer as well as the Deputy Monitoring Officer and Chief Finance Officer.

6. Monitoring

- 6.1 This policy will be monitored by the Head of Assurance and Compliance to ensure it reflects the processes within the OPCC.

7. Consultation

- 7.1 The Chief Executive was consulted during the development of this policy.

8. Associated Documentation

- Employment Rights Act 1996
- Public Interest Disclosure Act 1998
- Equality Act 2010
- OPCC Anti-Fraud and Corruption Policy
- Gwent Police Whistleblowing Policy

9. Dissemination

- 9.1 This policy will be circulated to all staff on renewal but time will also be provided at an OPCC training day to remind staff of the policy and to highlight any changes that have been made.

10. Review Period

- 10.1 Every two years.

11. Appendices

- 11.1 None