



WHISTLEBLOWING POLICY

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This document is also available in Welsh.

Version Control

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.
2.0	June 2024	Joanne Regan, Head of Assurance and Compliance	Main policy review has included clarity on the internal procedure.

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 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 This policy is intended to cover serious concerns about malpractice and applies to all staff and volunteers within the OPCC.

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 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 this with either the Deputy Chief Constable or Head of Professional Standards of 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.

A disclosure of information is not a qualifying disclosure if the person making the disclosure commits an offence by making it.

Reporting concerns internally

- 4.3 Wherever possible, it is recommended concerns are reported to an individual's line manager in the first instance or in the case of volunteers to the Scheme Manager. However, it is understood that it may be the line manager that the individual has concerns about. In these instances, the issue should be raised directly with the Chief Executive as Monitoring Officer or the Head of Assurance and Compliance as Deputy Monitoring Officer.
- 4.4 Individuals are encouraged to put their name to any concerns raised as this makes it easier to investigate and act upon the information provided quickly and effectively, and to provide feedback about the action taken.
- 4.5 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 individual 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 individual 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.

- 4.6 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 individual reporting their concerns to abide by any advice provided in order to protect their identity.
- 4.7 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 individual making the report.
- 4.8 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).
- 4.9 Any concerns or disclosures should be raised with one of the following:
- Line manager/Volunteer Scheme Manager (these concerns will need to be reported immediately to the Chief Executive and/or Chief Finance Officer).
 - Chief Executive and Monitoring Officer.
 - Chief Finance Officer.
 - Head of Assurance and Compliance and Deputy Monitoring Officer.
 - Safecall.
 - The Professional Standards Department of Gwent Police.

Reporting concerns externally

- 4.10 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.
- 4.11 However, the OPCC recognises that there may be circumstances where individuals may feel they wish to report matters to outside bodies.
- 4.11 A qualifying disclosure made by an individual to an external body, will be protected if the following tests are met:
- a) The individual 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 individual 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 individual 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 individual 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 His 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 an individual the matter will be taken seriously and reassurance and support provided to the individual 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, 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.

4.17 The Chief Executive and Monitoring Officer will maintain a record of concerns raised and the outcomes (but in a form which maintains confidentiality) and will report as necessary to the Police and Crime Commissioner.

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 an individual 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 An individual 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 an individual 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 an individual 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 Individuals 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 During the review of this policy the Chief Executive, OPCC Senior Management Team and the Volunteer Scheme Manager were consulted.

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 embedded into the OPCC induction process and will also be uploaded to the OPCC website.

- 9.2 Any changes to the policy will be brought to the attention of all staff, either by circulating electronically or at an OPCC training day.

10. Review Period

- 10.1 This policy will be reviewed every 4 years as a minimum or when amendments to OPCC rules, or changes in legislation and working practices are identified.

11. Appendices

- 11.1 Internal Procedure

Appendix 1

OPCC response to staff concerns

Within ten working days of a concern being received, the individual will be contacted by their preferred method to:

- Acknowledge that the concern has been received;
- Indicate how the person considering the issue proposes to deal with the matter;
- Give an estimate of how long it will take to provide a final response;
- Inform them whether any initial enquiries have been made; and
- Indicate whether further investigations will take place, and if not, why not.

The amount of contact between the person considering the issue and the individual will depend on the nature of the concern raised, potential difficulties involved and clarity of information provided initially.

When any meeting is arranged, individuals have the right to be accompanied by a Trade Union or professional association representative or a workplace colleague who is not involved in the area of work to which the concern relates.

Where it is deemed appropriate, in the interests of natural justice, the individual who is the subject of the concern will be informed of the investigation. However, if it is felt that this might hinder or prevent the initial investigation, then this will be delayed.

Where appropriate, an investigation will be carried out by an appropriate person, who will, if it is deemed necessary, involve an outside independent body (e.g. His Majesty's Inspectorate of Constabulary and Fire & Rescue Services or the Police and Crime Commissioner's Auditors). They will present their findings and make recommendations based upon them. This will be detailed in a written report. The report will be passed to the Chief Executive as appropriate who will decide on next steps.

What to do if not satisfied with the outcome

While the OPCC cannot always guarantee the outcome that the reporting individual may be seeking, concerns will be dealt with fairly, proportionately and in an appropriate way.

Any individual that feels dissatisfied with the outcome, should raise their concerns to the Police and Crime Commissioner, within 10 working days of being notified of the outcome.

The Police and Crime Commissioner will consider whether the matter has been managed appropriately and if the outcome is reasonable.

The Police and Crime Commissioner's decision is final and concludes the process.