



**LIVERPOOL  
CITY REGION**  
COMBINED AUTHORITY



**METROMAYOR**  
LIVERPOOL CITY REGION

# Confidential Reporting (Whistleblowing) Policy



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# 1. Purpose

This policy establishes the arrangements for the reporting of concerns (“whistleblowing”) by an employee and others, including agency / temporary workers, contractors and trainees of the Liverpool City Region Combined Authority or Merseytravel (hereafter referred to as “the organisations”). It outlines how a concern can be raised internally, rather than overlooking the matter or “blowing the whistle” externally.

The organisations have adopted this Confidential Reporting (Whistleblowing) Policy and associated guidance to advise those to whom the policy applies how to raise concerns confidentially and without fear of victimisation, subsequent discrimination or disadvantage.

This policy and guidance aims to:

- Encourage you to feel confident in raising serious concerns
- Reassure you that the organisations take Confidential Reporting (Whistleblowing) seriously
- Provide avenues for you to raise those concerns and receive feedback on any action taken
- Ensure that you receive a response to your concerns and that you are aware of how to pursue them if you are not satisfied; and
- Reassure you that you will be protected from possible reprisals or victimisation if you have a reasonable belief that you have made any disclosure in the public interest and in accordance with the Protected Disclosure Provisions.

This Policy does **not** replace the Corporate Complaints Procedure, Disciplinary Policy, Grievance Policy or the Health and Safety Incident Reporting Procedure.

# 2. Definitions

Confidential Reporting or “*Whistleblowing*” is the term used when an employee raises a concern about wrongdoing or malpractice in the workplace that has a public interest aspect to it. Officially, this is called “making a disclosure in the public interest”. Whistleblowing is important to protect and reassure the workforce, and to maintain a healthy working culture and an efficient organisation<sup>1</sup>.

A *grievance* or private complaint is a dispute about an employee’s own employment position and has no public interest dimension. The **Grievance Policy** exists to enable an employee or group of employees to raise a grievance or complaint relating to their own employment.

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<sup>1</sup> National Audit Office: Making a Whistleblowing Policy at Work (March 2014)

## 3. Policy Statement

The organisations will:

- Investigate all concerns which fall within the scope of this Policy;
- Respond quickly when concerns are raised;
- Inform persons bringing concerns forward of the outcome of any investigation subject to legal constraints;
- Treat all concerns in confidence and make every effort not to reveal the identity of the whistleblower without consent, unless required by law.
- Not tolerate harassment of employees or any other person who brings forward a concern;
- Endeavour to ensure that employees are not discriminated against or suffer detriment as a result of raising a concern; and
- Take appropriate action in the event of an individual suffering detriment as a result of raising a concern.

## 4. Scope

This Policy covers employees and others, including agency / temporary workers, contractors and trainees. There is no minimum period of service and no upper age limit.

The organisations' Confidential Reporting (Whistleblowing) Policy is intended to cover any concerns that fall within the scope of a "protected disclosure" under the Public Interest Disclosure Act 1998. This relates to "any disclosure of information which, in the reasonable belief of the worker making the disclosure, tends to show one or more of the following —

- a. that a criminal offence has been committed, is being committed or is likely to be committed,
- b. that a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject,
- c. that a miscarriage of justice has occurred, is occurring or is likely to occur,
- d. that the health or safety of any individual has been, is being or is likely to be endangered,
- e. that the environment has been, is being or is likely to be damaged, or
- f. that 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."

Protection for employees who "whistleblow" is documented in the Public Interest Disclosure Act (PIDA) 1998. A summary of the main provisions of the PIDA is

attached at Appendix A of this policy (please refer to the legislation at [www.legislation.gov.uk](http://www.legislation.gov.uk) for the full details of the provisions of the Public Interest Disclosure Act 1998).

## 5. Policy Evaluation

This Policy will be reviewed and updated on an annual basis by the Head of Internal Audit. In the case of significant changes, the Policy will be presented for approval to the LCRCA Audit and Governance Committee and Merseytravel. However, as a minimum, the Policy will be presented for re-approval every five years.

## 6. Responsibilities

The Chief Executive has overall responsibility for the maintenance and operation of the procedures detailed in this Policy within the LCRCA.

The Chief Executive and Director General has overall responsibility for the maintenance and operation of the procedures detailed in this Policy within Merseytravel.

The Head of Internal Audit is responsible for the implementation and day-to-day monitoring of this Policy and making staff aware of this Policy.

The organisations are committed to the highest legal, ethical and moral standards in the conduct of their business. In line with that commitment it is expected that employees who are either aware of malpractice, or suspect it, to report it in accordance with this Policy.

When bringing forward a concern it is the responsibility of individual employees to have a reasonable belief that the concern raised is substantially true and is made in the public interest. An employee doing so will be protected against recriminations, victimisation or harassment. This applies even if, after investigation, the disclosure is found to be incorrect or unfounded.

All concerns will be treated in confidence and every effort will be made not to reveal the identity of the Whistleblower without consent, unless required by law. However, a Whistleblower may be asked to make a statement or come forward as a witness, for example, during disciplinary proceedings.

If an allegation is found to have been made when known to be false, this will not be protected as the disclosure cannot be in the public interest. Such allegations will be treated as serious misconduct and may result in disciplinary action against the employee who made the disclosure.

The organisations will uphold the principles of employment and criminal law and protect as far as it is reasonable to do so, the rights of the accused.

Any investigation into allegations of potential malpractice will be conducted with confidentiality and will not influence or be influenced by any disciplinary or redundancy procedures that already affect you.

All employees should familiarise themselves with this Policy and if necessary, seek clarification from their Line Manager, or any of the officers detailed in the contact list at Appendix B.

## 7. Guidance

### How to Raise a Concern

Where you have a concern that falls under the scope of the Policy, the organisations encourage you to raise your concerns internally, rather than overlooking the matter or “blowing the whistle” externally. You should normally raise your concerns initially with your immediate supervisor or manager. However, depending on the seriousness and sensitivity of matter you may choose to raise your concerns outside of your direct line management. A list of contact officers with whom concerns can be confidentially raised or further advice and guidance can be sought is attached at Appendix B.

Concerns may be raised verbally or in writing. The earlier you express the concern the easier it is for the organisations to take appropriate action. There is a reporting form at Appendix C, which will assist you in reporting the relevant details of the concern.

Although you are not expected to prove beyond doubt the truth of an allegation, you will need to demonstrate to the person contacted that there are reasonable grounds for your concern.

You may wish to consider discussing your concern with a colleague first and you may find it easier to raise the matter if there are two (or more) of you who have the same concerns.

You may invite your trade union, professional association representative, a friend or legal advisor to be present during any meetings or interviews in connection with the concerns you have raised.

### Anonymous Allegations

You are encouraged to put your name to your allegation whenever possible. Concerns expressed anonymously can be more difficult to investigate / substantiate but will be considered at the organisations’ discretion.

In exercising this discretion, the factors to be taken into account would include:

- The seriousness of the issues raised;
- The credibility of the concern; and

- Available evidence / sources from which to substantiate the concern.

## **Untrue Allegations**

In accordance with the Enterprise and Regulatory Reform Act 2013, there is no requirement for disclosures to be true in order for whistleblowers to receive statutory protection. Therefore, if you report a suspicion of malpractice that is found not to be substantiated following an investigation, you will be protected under the Confidential Reporting (Whistleblowing) Policy.

However, any allegation that you make which you know to be false is not protected, as the disclosure would not be in the public interest. This could result in formal disciplinary action being taken against you.

## **How a Concern will be responded to**

The organisations will respond to your concerns. However, investigating your concerns is not the same as either accepting or rejecting them.

There may be a range of issues raised under this Policy and, depending upon the nature of the concern, the most appropriate officer to investigate will be determined.

Concerns or allegations which fall within the scope of specific policies and procedures (for example, discrimination issues) will normally be referred for consideration under those procedures.

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, in accordance with the Investigation Protocol. If appropriate, an issue may be referred to the Police or to the organisations' appointed External Auditor.

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 conducted.

Within ten working days of a concern being raised, the person to whom you made the complaint in the first instance will write to you:

- Acknowledging that the concern has been received;
- Indicating how the organisations propose to deal with the matter;
- Estimating how long it will take to provide a final response;
- Telling you whether any initial enquiries have been made;
- Supplying you with information on staff support mechanisms and;
- Telling you if no further investigations will take place and the reason/s for this.

Officers investigating your concerns may need to contact you to obtain further information or clarify points raised. Where any meeting is arranged, you can be accompanied by a union or professional association representative or a workplace colleague.

The organisations will take steps to minimise any difficulties that you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings, arrangements will be made for you to receive advice about the procedure, if you require it.

In the event that a colleague makes a protected disclosure and suffers any detriment, the organisations can be vicariously liable for the actions of the perpetrator, unless they can demonstrate they took all reasonable steps to prevent this happening. Workers can also be personally liable if they subject a colleague to a detriment in such regard.

The organisations accept that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, you will be informed of the outcome of any investigation.

### **How the Matter can be taken further**

The Confidential Reporting (Whistleblowing) Policy documents how concerns can be raised internally and how the organisations will deal with these. If you are not satisfied with the organisations' response you may wish to contact the following:

- The External Auditor
- Your Trade Union
- Your local Citizens Advice Bureau or Solicitor
- Relevant professional bodies or regulatory organisations
- The Police
- Your Member of Parliament

If you do report the matter externally, you should ensure that you do not disclose confidential information acquired during your employment unless it falls within the qualifying criteria for protected disclosures. Premature or inaccurate media exposure or adverse publicity may cause needless reputational damage, impede a proper investigation or cause unnecessary distress to individuals.



## APPENDIX A

### Public Interest Disclosure Act (PIDA) 1998

PIDA builds on existing employment protection legislation in the Employment Rights Act 1996. It makes it unlawful to subject a worker to any detriment for making what is known as a “*Protected Disclosure*”. Further provisions on whistleblowing are also included in the Enterprise and Regulatory Reform Act 2013.

The “Protected Disclosure” provisions have two aims:

1. To ensure concerns about malpractice is brought to the attention of the appropriate person who can deal with the issue quickly and effectively - and who can be held accountable if the concerns are not dealt with properly;
2. To encourage whistle-blowers to behave responsibly (for example to avoid leaking a story to the media).

There are three legal definitions of what constitutes a ‘protected disclosure’:

#### 1. Nature of the Disclosure

To be a protected disclosure, the disclosure must be about the commission of a criminal offence, a breach of any legal obligation, a miscarriage of justice, a risk to health and safety or damage to the environment.

#### 2. Disclosure to Whom?

A protected disclosure may be made:

- (a) To the worker’s employer;
- (b) To the person having legal responsibility for the matter that is subject to the disclosure;
- (c) In accordance with the employer’s whistle-blowing procedure;
- (d) To the worker’s legal advisor.

#### 3. Worker’s State of Mind

The person making the disclosure must reasonably believe that the information disclosed tends to show one of the matters outlined above so the disclosure can constitute the subject matter of a protected disclosure.

The Act places responsibilities on the actions of whistle-blowers. To be protected by the Act, the disclosure must not be made for personal gain and must be made in the reasonable belief that the allegation is substantially true and is made in the public interest. Furthermore, the disclosure will only be protected if a number of additional pre-conditions are satisfied. These include raising the matter internally or with a prescribed person, or if this has not been done it is because the person must reasonably believe that they will be subject to detriment by their employer.

## APPENDIX B

**Confidential Reporting (Whistleblowing) Policy****Contact List – March 2019****Financial Probity and Malpractice Issues:****Internal Audit (7<sup>th</sup> Floor, Mann Island)**

Director of Corporate Services	330 1959
Head of Internal Audit	330 1764
Audit Manager	330 1122
Audit Manager	330 1116
Senior Auditor	330 1284

**Human Resource/Staffing Issues:****People and Customer Development (9<sup>th</sup> Floor, Mann Island)**

Head of People and Organisational Development	330 1800
HRD Operations Manager	330 1213
HRD Strategy and Systems Manager	330 1204
Health and Safety Officer	330 1210

**Legal Issues and Advice:****Legal, Democratic Services and Procurement (7<sup>th</sup> Floor, Mann Island)**

Chief Legal Officer	330 1855
Head of Legal, Democratic Services and Procurement	330 1700
Legal, Democratic Services and Procurement Manager	330 1703

**External Auditors:**

Gareth Hitchmough, Mazars	237 2238
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**Independent Advice:**

**Public Concern at Work (PCAW)** is a whistleblowing charity that provides independent support and advice:

Website: <http://www.pcaw.org.uk/>

PCAW Whistleblowing Advice Line: 020 7404 6609

**APPENDIX C**

**Confidential Reporting (Whistleblowing) Policy  
Confidential Reporting Form**

1. Please describe the nature of your concern
2. Please give all background information relevant to your concern including key dates, people and 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?

<b>Person raising the concern:</b>	<b>Form completed by (if not the person raising the concern):</b>
Name:	Name:
Employee Number:	Employee Number:
Post Title:	Post Title:
Signed:	Signed:
Date:	Date:
<b>Form received by:</b>	
Name:	
Employee Number:	
Post Title:	
Signed:	
Date:	