



The Scottish Parliament
Pàrlamaid na h-Alba

Public Interest Disclosure Policy

Poileasaidh Foillseachaidh a
chum Leas a' Phobail

28 September 2018



Introduction

1. The Public Interest Disclosure Act 1998 allows individuals to disclose certain issues to particular external parties where there is good reason to believe that internal disclosure will not be taken seriously or will cause the individual making the disclosure to be penalised in some way. However, the SPCB is committed to dealing responsibly, openly and professionally with any genuine concern and encourages you to discuss your concerns internally wherever possible by reporting any wrongdoing or malpractice within the Parliament which you believe has occurred or is likely to occur.
2. The aim of this policy is to ensure that you are fully aware of the types of matters which you should report and the reporting procedure that you should follow.

Scope

3. This policy applies to all staff engaged by the SPCB to work within the Parliament. This includes staff directly employed by the SPCB, staff on secondment from other organisations, agency workers and other temporary staff.

Protection and Confidentiality

4. The SPCB will not tolerate any detrimental treatment of anyone raising a genuine concern under this policy. You have its assurance, therefore, that you will be offered protection if you raise any concern. We accept that you may wish to raise your concern in confidence. If you ask us to protect your identity by keeping your confidence, we will not disclose it without your consent unless we are required to do so by law (for example, The Scottish Parliamentary Standards Commissioner Act 2002 states that when the Commissioner receives a complaint about the conduct of a member of the Parliament, they shall inform the member of the name of the complainer except where they consider that it would be inappropriate to do so).

You should be assured that any matter that you report under this procedure will be taken extremely seriously and will be fully investigated. If a situation arises where it is not possible to resolve the concern without revealing your identity, we will discuss with you whether and how we can proceed.

Reporting Wrongdoing or Malpractice

5. It is the responsibility of everyone to ensure that appropriate, reasonable and timely action is taken in relation to any concerns of wrongdoing or malpractice raised that could expose the SPCB to loss or liability. We would encourage you to report any situation or matter which, you reasonably believe, might show that one or more of the following has occurred, is occurring or is likely to occur in the future:

- a criminal offence;
- a failure to comply with a legal obligation;
- a miscarriage of justice;
- a danger to the health and safety of any individual;
- damage to the environment;
- a deliberate cover-up of any of the above matters;
- a serious act of misconduct (examples of which are set out in Annex A of the Disciplinary Procedures);
- a serious breach of our conduct rules (these are set out in Section 4 of the Parliamentary Staff Handbook); or
- a serious breach of the Members' code of Conduct and the Members' Interest Order.

6. This reporting procedure should also be followed if you feel that you have been asked to do something which you believe to be improper or unethical or which you believe would result in your being implicated in any of the matters listed above. Please note that those marked with an asterisk are not covered by the protections of the Act, although we will treat them as if they were if raised internally.

How to Raise a Concern Internally

7. As soon as you become aware of any matter of the type listed above, or if you wish to confirm whether it is a matter which should be raised, you should speak with your Head of Office/Group or, informally, with the Head or Deputy Head of Human Resources. If the potential complaint is against a Member, the Standards Committee Clerks will also be happy to provide informal advice.

8. If you decide to raise the matter under the policy, you should then report it immediately to the Head or Deputy Head of Human Resources or an Assistant Clerk/Chief Executive, if you prefer. Again, if the matter concerns a Member, you should report it to the Clerk to the Standards Committee and to the Head or Deputy Head of Human Resources or an Assistant Clerk/Chief Executive. You may raise these concerns either orally or in writing. You are reminded, however, that e-mail is not an appropriate medium for transferring confidential information.

9. It is very important for you to report promptly any of the matters referred to above in order to assist the SPCB in upholding its high standards and to help prevent the concealment or destruction of evidence which it might need to review.

10. Once you have told us of your concerns, we will investigate the matter and make an initial assessment of the action should be taken (if any). This might involve an internal inquiry or a more formal investigation. We will notify you of who is handling the matter, how you can contact them and whether your further assistance may be required. Subject to any legal constraint, we will keep you informed of the progress of the investigation and its outcome. You have an assurance that the matter will be dealt with promptly and within a reasonable time.

11. Although, for obvious reasons, we would not encourage matters to be raised on an anonymous basis, these will still be investigated. Anonymous disclosures are very rarely helpful since the reliability of the disclosure generally cannot readily be ascertained.

How to Raise a Concern Externally

12. It should only be in exceptional circumstances that it should be necessary for you to raise a concern externally. It is accepted however that you may disclose information to a legal adviser in the course of obtaining legal advice. Provided the disclosure is made in good faith and you believe it to be substantially true, you may also disclose information to one of a number of prescribed "supervisory persons" that protected disclosures may be made to under the Act – such as the Health & Safety Executive for health & safety matters, the Scottish Environmental Protection Agency in respect of environmental matters, etc.

13. You should seek independent advice before raising concerns externally so that you can be advised as to whether the proposed disclosure may be protected under the Act. Such advice can be obtained from the charity:

Public Concern at Work
Suite 301
16 Baldwins Gardens
London
EC1N 7RJ

Telephone (general enquiries and helpline): 020 7404 6609

Fax: 020 7404 6576

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

Email:

UK enquiries: whistle@pcaw.co.uk

UK helpline: helpline@pcaw.co.uk

UK services: services@pcaw.co.uk

14. You can be assured that no one who reports any concern under this policy in good faith will suffer any detriment for coming forward, regardless of whether or not the concern is ultimately substantiated. Victimising staff for or deterring them from raising a concern under this policy is a disciplinary offence and will be dealt with under the disciplinary procedures (see paragraph 17 below).

15. The SPCB encourages disclosures made in good faith. However, you should be aware that disclosure to the media or to non-prescribed persons will not usually be protected other than in extreme circumstances and that non-protected disclosures may lead to disciplinary action being taken against you (see paragraphs 17 and 18 below).

How We Will Handle Alleged Detriment

16. If you believe that you are being victimised by or suffering any detriment from someone from within the Parliament as a result of reporting a concern or assisting us in any investigation, you must inform the Head or Deputy Head of Human Resources immediately and appropriate action will be taken to protect you.

Disciplinary Action

17. Disciplinary action will be taken against anyone who:

deliberately makes false or malicious allegations;

makes disclosures for personal gain;

makes a non-protected disclosure (see paragraph 5 for a list of those disclosures which are protected) without exhausting the internal procedure;

victimises anyone for raising a concern or making a disclosure under this policy;

inappropriately deters anyone from making a legitimate disclosure.

Such conduct will be treated as gross misconduct and may lead to dismissal.

18. Where, following investigation, a disclosure is substantiated, disciplinary action in terms of the Disciplinary Procedures may be taken against the person who is the subject of the disclosure.

Guidance on Specific Issues

19. This policy is designed to allow a channel for serious issues of public interest (i.e. inappropriate or illegal use of public resources) to be raised. It should not be used for concerns of any other nature which you feel have a particular negative impact on you and for which the normal grievance or other appropriate procedure should be used. Examples of other appropriate procedures are:

the procedure for making a complaint about an equalities issue which is set out in the Equality Framework; and

the procedure for reporting a suspected fraud which is set out in the SPCB's Fraud Prevention Policy Statement– Finance Guidance Note 2(2002).

20. Further guidance will be issued to staff in relation to specific issues, for example additional guidance during an election, as appropriate.

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For further information contact:

HumanResources@parliament.scot

0131 348 6500

An abstract graphic in the bottom right corner consisting of several overlapping, irregular polygons. The colors are various shades of purple, from dark to light, and a teal color. The shapes are layered, with some appearing in front of others, creating a sense of depth and movement.