

**Whistleblowing Policy
Formal Consultation Responses - 2016**

	A	B	C	D	E	F
1	Consultee	Department	Division	Section No	Whistleblowing: Comments	Comments
2	Angela Moffatt	Prospect		General	As a union Prospect support a clear and effective whistleblowing policy that commands the respect and support of staff.	
3		Treasury		General	As you will appreciate both these subjects have a heavy Audit involvement and as such it is quite concerning that the policies, even in draft form, did not mention the requirements of Financial Directions or the role of Audit, hence the response. Gary Milligan, from Audit, who provided the responses should be contacted by those producing these policies as part of the policy drafting process.	Audit was contacted during the 'interested party' consultation in 2015. Further meeting was held with Gary Milligan in February 2016.
4	Charles Wilson	Public Services Commission	Lay Member	General	A very comprehensive update for which thank you.	
5	B Henderson	MHK		General	I am in full support of both Anti-Bribery and Whistleblowing documents.	
6		Home Affairs	Admin & Legislation	General	The Service Heads of the Dept have welcomed the opportunity to comment but have decided that they have no comments to make.	
7	Bill Henderson	MHK		p. 2 Introduction para 2	include phrase'...when someone is potentially breaking the law'	Included
8	Bill Henderson	MHK		p 3; Exec summary 1. Background	Have we tested this against the case of the Registry worker? To see that it works for the staff involved there?	It would not have been appropriate in this instance.
9	Bill Henderson	MHK		p 3. 3. Risk end para 2	And any other adverse effects directly attributable to the actions of making a protected disclosure such as intimidation or bullying from any particular other staff	This is an exec summary only - and 'any detriment' will cover intimidation and bullying
10	Bill Henderson	MHK		p 5 1. Policy Statement	State what 'the appropriate channels' are	The 'Guidance for Individuals' Appendix A explains what the appropriate channels are

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11		DOI	Office of Minister & CEO	p 5 Clause 2	Consideration should be given to adding a bullet point 'enable staff to identify what constitutes a serious concern or wrongdoing.'	Amended
12	Bill Henderson	MHK		p 6; 5 at end of final bullet point	And in respect of colleagues	Covered in final bullet point
13	Charles Wilson	Public Services Commission	Lay Member	p 7 Clause 10	The CIPD stops short of total anonymity - CIPD Factsheet Employees should inform their line manager immediately if they become aware that any of the specified actions is happening (or has happened, or is likely to happen). • In more serious cases (for example, if the allegation is about the actions of their line manager), the employee should feel able to raise the issue with a more senior manager, bypassing lower levels of management. • Whistleblowers can ask for their concerns to be treated in confidence and such wishes will be respected. • Employees will not be penalised for informing management about any of the specified actions	Noted - discussed with Audit who confirm that there have been occasions when anonymous whistleblowing has had positive outcomes and has resulted in an audit review in certain areas which uncovered areas of poor practice, which could then be addressed. It was agreed that the Policy would retain the option of anonymous reporting - but recommend ownership as per below.

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14	Charles Wilson	Public Services Commission	Lay Member	p 7 Clause 10	<p>Anonymous allegations - I re-iterate one managerial principle to which I have always held. Anonymous complaints/comments of whatever nature should be given no recognition and be declared 'unacceptable.'</p> <p>As written we have a set of regulations which should give confidence of protection to any whistleblower. We should stand by the rigour of those policies as being sufficient protection for the informant. I appreciate that this is not embraced by 'whistleblowing UK' or gov.uk whose wording fudges the issue somewhat</p> <p>'... You can tell your employer or a prescribed person anonymously but they may not be able to take the claim further if you haven't provided all the information they need. You can give your name but request confidentiality - the person or body you tell should make every effort to protect your identity. If you report your concern to the media, in most cases you'll lose your</p>	<p><i>Amended as follows: This policy strongly encourages you to put your name to your allegation. Protection against reprisals offered under this policy depends upon the organisation knowing your identity. Concerns expressed anonymously are often much more difficult to investigate as it is impossible to seek clarification or more additional information. It may therefore not be possible to progress a concern that has been raised anonymously.</i></p>
15	Charles Wilson	Public Services Commission	Lay Member	p 7 Clause 10	<p>I spoke with 'Public Concern at Work' The Whistleblowing Commission and got fudge again.....Some do have that policy.....some don't. Eventually after some direct questioning I got my respondent down to.....'We would not encourage anonymity....though it's really a decision for the Board' I stand by a clear declared principle of not progressing anon info. I accept that there is a risk that the org might miss out on some info. That is a risk which I have always taken. (and so far survived!!)</p>	<p>see above</p>

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16		Treasury		p 7; 12. Relationship with other procedure	Financial irregularities must be reported to the Director, Audit Advisory Division, Treasury	Amended
17		Treasury		p 8; 2may be progressed in conjunction with the Director, Audit Advisory Division (please note there are various references in this section that need updating) .	Noted and corrected
18		DOI	Office of Minister & CEO	p 8 Clause 11	The Statement on 'Untrue Allegation' is needed and good	
19	Council of Ministers			p.8 13	<u>Responsible Officer</u> : Amend this to reflect the removal of the requirement to submit an Annual Return to the Chief Secretary as per Appendix E and E1	Text amended to: 'Each Accounting Officer has overall responsibility for the maintenance and operation of this policy within their respective organisation and will maintain a record of concerns raised and their outcome in a form that does not breach the confidentiality agreement covered by this policy. As a matter of good governance, the Audit Advisory Division of the Treasury will undertake random checks on the incidence of cases reported and the outcome.'
20	Bill Henderson	MHK		p 9; 15. end para 1	I think you need to make this clearer, as what happens if a staff member does spot something but to report it makes it an offence under the above illustration? What do they do under these circumstances if they are aware or suspect that wrong doing is taking place? It is negligent surely if they ignore it?	Appendix D clarifies legislation relevant to protected disclosures - reference to this is included at this point.

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21	Bill Henderson	MHK		p 9; 16 question	What does happen to a staff member who as a consequence of responsible reporting can no longer undertake the position or duties that they were in when making the report? We cant penalise them surly?	The policy recognises the need to support and protect staff - 'Policy Aims' and 'Commitment to Action' and 'Your Assurance' state: reassure members of staff that they will be protected from reprisals or victimisation for whistleblowing in good faith.
22	Bill Henderson	MHK		p 9; Appendix A 1. para 1	There is also a very real concern as I have come across time and time again, especially with poor performance issues, failure to carry out duties that, that individual will lose their job. That one of the biggest issues with reporting untoward behaviours – and this aspect needs to be made very clear in this document so staff feel safe to make a report.	This policy is robust and if a disclosure is made in good faith the assurances above should ensure that anyone who makes a disclosure under this policy is protected. Poor performance issues should be addressed via capability procedures.
23		Treasury		p 9; Appendix A a) last bullet point	payments in exchange for awarding contracts and/or offering, taking or soliciting bribes (Whistleblowing in regard to bribery needs to be reported as per the Whistleblowing procedure and Anti-Bribery Procedure ie to a Designated Officer and a Constable in the Isle of Man Constabulary Financial Crime Unit3. - no reference to Audit Advisory Division being involved in reporting process, no reference to the reporting of all Financial Irregularities under FD11....	Following discussion with Audit - See WB flowchart note; if the concern involves a financial irregularity this should be reported as per FD11 p 8 Relationship with other procedures - refers to Financial irregularities and how to report these.
24	Bill Henderson	MHK		p 9; Appendix A 1 a) after final bullet	What about bullying and psychological abuse of staff? Harassment, discrimination and victimisation. I know there is a policy on that, but feel it should be listed under the guidance here as there is a potential that staff may feel as if its not listed that can't report it under this policy. If necesssary policies should be cross referenced to each other.	Policies/procedures are cross referenced under No 12 'Relationship with other Procedures' - Point iii. Bullying, harassment and discrimination has been clarified.

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25	Bill Henderson	MHK		p 11; Appendix A 1 c) para 1	What will a staff member feel they cannot report an issue to their line manager, or they are worried about their line manager? There needs to be clear guidance as to who they can contact and are not line manager inserted here. Could there be an independent person that could take such complaints. Again staff may be fearful of 'the come back' of their actions. Access to an independent person with confidentiality may help here. Staff also need to know they are making a 'disclosure' and how to use the wording to ensure that what they are reporting activates this policy and its protection. This is not clear here for someone reading it.	This is covered in the section 'With whom should your concerns be raised?' They could pick any Designated Manager from their Department or the Director of Audit Advisory Division. 'How to raise your concern' clarifies this.
26		Treasury		p 11; Appendix A b) last bullet point	Second Paragraph - If you have other queries in this regard please call the Treasury Assurance Advisory Division Confidential Reporting telephone line 686546 or email audit.fraud@gov.im. (the link is dead, should read enquiries.audit@gov.im) Your query will be dealt with on a confidential basis.	Amended
27	Bill Henderson	MHK		p 12; Appendix A 1 c) para 3	You need to make it very clear for someone reading this how they go about doing this. Sounds daft, but we wrote this and know what we are talking about and it may seem obvious to us. But for someone who is possibly stressed and worried about come back then it is a very different matter and they may feel put off.	This point has been clarified.
28	Bill Henderson	MHK		p 12; Appendix A 2 para 1 p 12	You need to say who this is likely to be and better to repeat it than to have someone being unclear, and therefore not making a disclosure	This may be a Designated Officer for that Department, or an officer from the Audit Advisory Division - this will be on a case by case basis so its not possible to define further.

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29	Bill Henderson	MHK		p 12; Appendix A 2 para 5	If the concern involves the Chief Executive, the Minister or Chairman responsible for the Department, Board or Office will decide who the investigation is to proceed' this doesn't read correctly who decides?	Amendment made to clarify
30	Angela Moffatt	Prospect		p 13; Appendix A 2.	While there is no issue with the policy itself, there is a concern it is fundamentally flawed in its present use of designated officers for the submission of reports for a specific area of Government, especially when the potential whistleblower only has a choice of one person to report their concerns to in their Department. As an example, it may be problematic for a whistleblower to make a report when the Designated officer is either the subject of the whistleblower's concern, or would be unduly influenced (either by friendship of management responsibilities) by the person who is the subject of the whistleblower's concern. It is suggested that there be a designated officer to handle such whistleblowing reports when the usual officer is reasonably believed by the whistleblower to be subject to a conflict of interest with regard to the subject of the report.	In the event that there is only one Designated Officer for a particular area, or if there is a perceived conflict of interest, there is the option for a whistleblower to contact the Director of Audit Advisory Division via Confidential Reporting telephone line 686546 or email audit.fraud@gov.im or enquiries.audit@gov.im
31	Bill Henderson	MHK		p 15; Appendix B 1 para 5 p 15	Where a member of staff formally invoked the policy...' You need to make it clear and easily understandable how a member of staff goes about 'invoking the policy' or in another section of this.	Amended

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32		DOI	Office of Minister & CEO	p 19 Appendix C - Definitions and Glossary	What is a Whistleblowing Concern?' and 'Wrongdoing and Serious Wrongdoing' consideration should be given to making explicit that a general dissatisfaction with a decision or working practice does not in itself constitute a whistleblowing concern or wrongdoing.	It is considered that definitions in the Glossary are sufficiently clear Also a list of examples is provided in Appendix A a) 'What concerns should be raised under this policy?'
33		Treasury		p 19; Appendix C - Definitions and Glossary	Fraud Liaison Officer.....Audit Advisory Division.....	Amended
34	Council of Ministers			Appendix E and E1	Annual Return to Chief Secretary	This information was, up until 2015, obtained by the Cabinet Office and formed part of an annual Cross Government Report submitted to the October sitting of Tynwald. As a result of a decision by Council on 3 September 2015 that the content of the Cross Government Report was either a duplication of information already available or could easily be obtained, it would no longer be necessary for the Cabinet Office to produce this report.
35		DOI	Office of Minister & CEO	p 23 Appendix F	Please note the Designated Offficer for Whistleblowing is the Director for Strategy, Policy and Performance	Amended
36		Treasury		p 23; Appendix F Designated Officers	Director, Audit Advisory Division	Amended
37		Treasury		p 24; Flowchart	Differentiates between reporting financial irregularity and reporting bribery?	Requirements for reporting Bribery are as per Anti Bribery Policy and Anti Bribery Act 2014
38		DOI	Office of Minister & CEO	p 24 Appendix G - flowchart	The flowchart should include a decision box to confirm if the concern falls within the remit of the Whistleblowing Policy - in part related to item above.(53) This should be followed through in the rest of the document in Appendix A and Appendix B.	Clarified as requested