

# **SNOWDONIA NATIONAL PARK AUTHORITY CONFIDENTIAL REPORTING POLICY ("WHISTLE-BLOWING")**

## **1. WHAT IS WHISTLE-BLOWING?**

Whistle-blowing is the disclosure of malpractice or illegality within an Authority to a person having the potential to stop such malpractice or illegality. This Policy explains how to "Whistleblow" and to whom.

## **2. BACKGROUND**

- (1) Employees are often the first to realise that there may be something seriously wrong within the Authority. However they may not express their concerns because they fear harassment or victimisation, or feel that speaking out would be disloyal to colleagues or to the Authority.
- (2) This Authority is committed to the highest standards of openness, probity and accountability. In line with that commitment the Authority encourages employees and others with serious concerns about the Authority's work to come forward and voice those concerns within the Authority. It is recognised that certain cases may have to proceed on a confidential basis.
- (3) Under the Local Government Act 2000 and its Codes of Conduct for Members and Officers, emphasis is placed on the need for wrong doing to be brought to the attention of the Authority and for those doing so to be protected from victimisation. A whistle blowing or reporting mechanism invites all staff to act responsibly to uphold the reputation of their organisation and maintain public confidence. Encouraging a culture of openness within an organisation will also help the process. This policy aims to ensure that serious concerns are properly raised and addressed within the Authority.

## **3. THE PUBLIC INTEREST DISCLOSURE ACT 1998**

- (1) The Act provides that a dismissal or selection for redundancy of a worker is automatically unfair if it is for making a Qualifying Disclosure in good faith to someone to whom s/he is entitled to make it or to penalise him/her for doing so.
- (2) A Qualifying Disclosure is defined as a disclosure which tends to disclose 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.
- (3) A disclosure of information is not a qualifying disclosure if the person making the disclosure commits an offence by making it.
- (4) A disclosure of information in respect of which a claim to legal professional privilege (or, in Scotland, to confidentiality as between client and professional legal adviser) could be maintained in legal proceedings is not a qualifying disclosure if it is made by a person to whom the information had been disclosed in the course of obtaining legal advice.
- (5) A qualifying disclosure will be protected if the worker discloses it:
  - (a) In the course of obtaining legal advice;
  - (b) To the employer;
  - (c) In certain circumstances to a Minister of the Crown;
  - (d) To a “prescribed person” reasonably believing that the information and any allegation contained within it are true. The Secretary of State prescribes by list both the identity of the prescribed person (usually a regulatory body) and its remit. The Department for Business Innovation and Skills has published a list of prescribed persons together with a brief description about the matters that can be reported to each prescribed person. Further information including a link to the list of prescribed persons can be found on the GOV.UK website: [www.gov.uk/whistleblowing](http://www.gov.uk/whistleblowing);
  - (e) To any person or body provided that a number of detailed conditions are satisfied. Those conditions include a requirement that the worker does not make the disclosure for purposes of personal gain and a requirement that it is reasonable to make the disclosure in the circumstances. A further section makes provision for a disclosure of an exceptionally serious failure to any person or body.

#### **4. AIMS OF THIS POLICY**

- (1) To inform staff how to raise serious concerns.
- (2) To encourage staff to feel confident that genuine concerns can be raised without fear of reprisals.
- (3) To assure staff that legitimate concerns will be thoroughly and fairly investigated.
- (4) To ensure that whistle-blowers receive feed-back on any action taken.
- (5) To describe how a matter can be taken further.

#### **5. SCOPE OF THE POLICY**

- (1) The Whistle-Blowing Policy is not intended to replace existing procedures. For example there is already in place the Authority's own Complaints Procedure or the right for a member of the public to complain to the Ombudsman about the Authority, or allege that a Member has breached the Authority's Code of Conduct. Internally, an employee is already able to use the Grievance Procedure and other approved policies in relation to their own employment e.g. Harassment Policy, Equal Opportunities Policy. The Whistle-blowing Policy however is intended to cover concerns that fall outside the scope of these other procedures.
- (2) Examples of serious concerns that properly fall under this policy could include:
  - (a) An unlawful act whether civil or criminal
  - (b) Maladministration
  - (c) Breach of any Statutory Code of Practice or Conduct
  - (d) Breach of or failure to implement or comply with any Standing Orders or policies determined by the Authority
  - (e) Fraud or corruption
  - (f) Dangerous practice likely to cause physical harm/damage to any person/property
  - (g) Physical, sexual or other abuse or harassment.
  - (h) Failure to rectify or take reasonable steps to report a matter likely to give rise to a significant and avoidable cost or loss of income to the Authority or which would otherwise prejudice the Authority.
  - (i) Abuse of power or the use of Authority powers for unauthorised or ulterior purposes
  - (j) Unfair discrimination in the course of the Authority's employment or provision of its services.
- (3) The Policy is provided primarily for use by employees of the Authority, but may also be used by others (e.g. Members and contractors) as appropriate. References to 'employees' or 'staff' should be deemed to include others as appropriate. However, separate procedures apply to complaints by Members against the actions of Members, and to complaints by members of the public.
- (4) This Policy will be reviewed every three years unless the Monitoring Officer is of the opinion that internal or external changes affecting the Authority make it advisable to review the Policy at an earlier date.

## **6. SAFEGUARDS**

### **(1) Harassment or Victimisation**

- (a) The Authority recognises that the decision to report a concern can be a difficult one, not least because of the fear of reprisal from those responsible for the malpractice. Staff who make an allegation in good faith should have nothing to fear as they will be doing their duty to their employer, colleagues, and to the public.
- (b) The Authority will not tolerate harassment or victimisation, and if they occur they will be liable to disciplinary action.
- (c) Where the concern raised relates to an employee's Line Manager the Authority will ensure that the relationship is monitored, both during the course of any investigation, and subsequently.

### **(2) Confidentiality**

The Authority will do its best to protect the identity of employees who raise a concern and do not want their name to be disclosed. It must be appreciated, however, that the investigation process may reveal the source of the information and that a statement by the employee may be required to enable the investigation to be taken forward.

### **(3) Anonymous Allegations**

This Policy encourages employees to make any allegations in writing and to put their name to the allegation. Concerns expressed anonymously are much less powerful, and are more difficult to investigate. Further it will be more difficult to protect the informant's position and provide feed-back. However even anonymous allegations will be considered and may be pursued at the discretion of the Authority. In exercising the discretion, the factors to be taken into account would include:

- (a) The seriousness of the issues raised
- (b) The credibility of the concerns; and
- (c) The likelihood of confirming the allegation from attributable sources

### **(4) Unfounded Allegations**

Provided an employee makes an allegation in good faith no action will be taken against them, even if the allegation is not borne out by an investigation. However it is important that the Authority also protect officers and Members who may be the subject of unfounded allegations. Accordingly it must be clearly understood that employees who make malicious, vexatious or repeated allegations may have disciplinary action taken against them.

## **7. HOW TO RAISE A CONCERN**

- (1) If employees have a concern they should not approach or accuse individuals directly or attempt to investigate the matter themselves.
- (2) It is recognised that raising a concern can be a daunting experience for an employee. Accordingly, a nominated personnel representative will be available from start to finish to provide advice and guidance to both the employee and the Authority.
- (3) Normally, the concern should be raised with the employee's line manager, Head of Service or Director. However it is appreciated this may depend on the seriousness and sensitivity of the issues involved, and who is thought to be involved in the malpractice. Accordingly in a suitable case employees may prefer to approach the Chief Executive (National Park Officer), any Director, the Chief Finance Officer, Head of Finance or Head of Personnel.
- (4) Initially you may telephone or arrange to meet the appropriate officer. However if the matter is to be investigated concerns are far better raised in writing. Employees are invited to set out the background and history of the concern giving names, dates, places, and other details wherever possible and the reason why they are particularly concerned about the situation. The earlier employees express their concern the easier it will be to take action.
- (5) Although employees are not expected to prove the truth of an allegation they will need to demonstrate to the person contacted that there are reasonable and sufficient grounds for their concern.

- (6) Employees may invite their Trade Union or professional association to raise a concern on their behalf.
- (7) If you have concerns which you feel unable for whatever reason to raise within the Authority you should raise the matter with one of the external points referred to in paragraph 9 (2) at the end of this document or by contacting a prescribed person as set out in paragraph 3 (5) (d) above.

## **8. THE AUTHORITY'S RESPONSE**

- (1) In order to protect individuals and the Authority initial enquiries will be made before deciding whether an investigation is appropriate and, if so, what form it should take. However, testing out your concerns is not the same as either accepting or rejecting them. Some concerns may be resolved without the need for investigation.
- (2) If an investigation is deemed appropriate the action taken by the Authority will depend on the nature and seriousness of the concern. The issues arising may:
  - (a) Be investigated internally e.g. by the Monitoring Officer, by the Chief Finance Officer, the Head of Personnel or appropriate Manager.
  - (b) Be referred to Internal Auditors.
  - (c) Be referred to the Wales Audit Office.
  - (d) Be referred to the Police.
  - (e) Form the subject of an independent enquiry e.g. by the Public Services Ombudsman for Wales.
- (3) Within ten working days of the written concern being received the Authority will respond in writing:
  - (a) Acknowledging that the concern has been received
  - (b) Indicating how it proposes to deal with the matter
  - (c) Giving an estimate of how long it is likely to take to reach findings on the concern raised
  - (d) Indicating whether initial enquiries have been made, and
  - (e) Indicating whether further investigations will take place and if not the reasons why
- (4) The amount of contact between the person raising the concern and officers considering the matter will depend upon the nature of the issues raised, the potential difficulties involved, and the clarity of the information provided. In any event however if it proves necessary to proceed the Authority will still endeavour to provide appropriate feed-back.
- (5) If a meeting is arranged, employees will be entitled, if they so desire, to be accompanied by a Trade Union representative or friend.
- (6) The Authority will take steps to minimise any difficulties which you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings the Authority will arrange for you to receive advice about the procedure.
- (7) The Authority accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, we will inform you of the outcome of any investigation.

## **9 HOW THE MATTER CAN BE TAKEN FURTHER / PROCEEDING EXTERNALLY**

- (1) This policy is intended to provide a procedure whereby concerns raised are dealt with fairly and thoroughly within the Authority. By using this procedure staff will help the Authority achieve this.
- (2) It is hoped that employees will be satisfied by action taken by the Authority. However if they are not, or feel the need to raise the matter outside the Authority the following are possible contact points:
  - (a) Their Trade Union
  - (b) Relevant professional bodies or regulatory organisations
  - (c) Wales Audit Office
  - (d) Public Services Ombudsman for Wales
  - (e) Health and Safety Executive
  - (f) The charitable organisation Public Concern at Work: 0207 404 6609
  - (g) The Police
- (3) If staff do take the matter outside the Authority, and so make disclosure outside of this Policy, they should ensure they do not disclose confidential information unless that disclosure is privileged and relevant to the concern raised. Confidential Information can include personal information about members of staff. Anyone proposing external disclosure should seek independent legal advice as there are in some circumstances detailed conditions that have to be satisfied if a disclosure is to be a protected disclosure.