

Protected Disclosures (Whistleblowing) Policy and Procedures

1. Purpose

- 1.1 The GLAA is committed to ensuring high ethical standards of conduct in all that it does. However, wrongdoing can occur. It is important that employees know what to do if, in the course of their work, they come across something that they think is fundamentally wrong, illegal or endangers others within the organisation or the public.
- 1.2 This policy seeks to set out how such concerns will be dealt with so that employees can feel confident to raise issues. There are a number of channels in place for raising other types of concerns including raising a Grievance, identifying issues and risks for your work area or the organisation or through conversations with managers. The GLAA takes all concerns seriously and has put in place processes to ensure that they are managed transparently, fairly and appropriately.
- 1.3 The Audit and Risk Assurance Committee, (ARAC) will have oversight of the operation of this policy and when any disclosure is made, will ensure that it is investigated appropriately which may mean that it is investigated external to the GLAA by a suitably qualified individual/body. The outcome of any investigation will be reported to ARAC to ensure that the process is being operated properly and consistently. The HR team will keep a basic register of disclosures made under the policy for administrative purposes.
- 1.4 Any employees, whether member of permanent/temporary staff, consultants, contractors or third parties, must be able to express their genuine concerns about past, present or imminent wrongdoing, or an attempt to cover up wrongdoing, in an organisation or a body of people. To attract specific legal protection the information disclosed should be in the **public interest**, meaning that the issue must affect others, for example the organisation, work colleagues or the general public. This policy and associated procedures enable people to express their genuine concerns without the fear of harassment, victimisation etc. It also seeks to ensure concerns are treated properly.
- 1.5 A concern reported under this procedure may be covered by the law relating to protected disclosures of information. The policy and procedure has therefore been written with reference to the Public Interest Disclosure Act 1998 (PIDA) and Part IVA Employment Rights Act 1996 (ERA), which offers protection to those in both the private and public sectors, who 'blow the whistle', in certain circumstances. It is important that this procedure is followed when raising any concerns, to ensure that the matter is dealt with correctly.
- 1.6 Where a concern is properly raised under this procedure, the individual will be protected from any unfair or negative treatment including the right not to be dismissed, subjected to any other detriment, or victimised, because they have made a disclosure. Raising a concern outside the prescribed routes listed in this procedure, for example, with the media, campaign groups, on social media or with MPs or political parties, is protected by the ERA only in very limited circumstances and could, if it amounts to an unauthorised disclosure, result in disciplinary action. It may also breach the Official Secrets Act. Please refer to the GLAA Media Policy

and the Social Media Policy on Morecambe regarding contact with the media and use of social media for further guidance.

- 1.7 The ERA does not introduce a general protection for whistle-blowers in all circumstances, but a disclosure may qualify for protection if, in the reasonable belief of the employee making it is made in the public interest and tends to show that that one or more of the following has occurred, is occurring or is likely to occur:
- a failure to comply with a legal obligation
 - a miscarriage of justice
 - the committal of a criminal offence
 - the endangering of an individual's health and safety
 - damage to the environment, or
 - deliberate concealment of any of the above
- 1.8 It is the responsibility of all managers (within the GLAA, its suppliers, consultants and third parties) to ensure that all employees are aware of the Protected Disclosures (Whistleblowing) Policy and Procedure.

2. Principles

- 2.1 The Protected Disclosures (Whistleblowing) Policy and Procedure has been designed to:
- Offer protection when raising a concern that is accepted under the policy;
 - Ensure that concerns are addressed and resolved at the right level and as quickly and effectively possible;
 - Encourage an open culture where individuals feel confident that concerns can be raised and dealt with quickly and that they will be protected for doing so;
 - Detect and deter wrongdoing;
 - Provide managers with the information they need to make decisions and control risk;
 - Save lives, the environment, property, jobs, money and both personal and organisational reputations;
 - Reduce the chance of anonymous or malicious leaks or allegations (including to the media);
 - Reduce the chance of legal claims against the organisation and individuals.

3. Scope

3.1 This policy applies to:

- employees of the GLAA
- agency workers
- someone training with the GLAA, but not employed
- self-employed workers
- third party contractors

3.2 Workers who have left the organisation may be able to make a protected disclosure. They are also entitled to raise matters with the relevant regulatory body, law enforcement or the media in limited circumstances¹. We would encourage workers to seek advice before making a disclosure.

4. Policy Compliance

4.1 If any employee is found to have breached this policy, they may face disciplinary action.

5. Procedure

5.1 This note describes the procedure for raising and dealing with concerns about wrongdoing relating to the running of the GLAA or to the work-related activities of employees. This practice is commonly known as “**whistleblowing**”. This procedure does not relate to concerns submitted by members of the public about the activities of the GLAA which would be dealt with under the organisation’s External Complaints Procedure.

6. What concerns are covered by it?

6.1 If you have concerns that any of the following activities set out below are, have been, or will be, taking place in the GLAA you should approach your line manager as soon as possible. If you feel you are unable to do this, you may use the other reporting options as set out in section 7 below:

- Criminal offence
- Failure to comply with legal obligations
- A miscarriage of justice

¹ In *Onyango v Berkeley (t/a Berkeley Solicitors)* UKEAT/0407/12 the EAT held that a disclosure made after employment has terminated can still be a protected disclosure under the whistleblowing provisions of the ERA 1996.

- Actions which could be a danger to the environment or to people (e.g. improper disposal of hazardous materials or abuse or mistreatment of children or vulnerable people)
- Being influenced by improper pressure from others or the prospect of personal gain;
- Actions which would be endangering an individual's health or safety; or
- A deliberate concealment of information relating to any of the above (e.g. dishonest or fraudulent conduct relating to payments or falsifying documents)
- Actions which could put the protection of personal information, of customers or employees at risk
- A threat to National Security (e.g. failure to follow security vetting procedures or falsifying documentation).

6.2 Concerns that are solely of a personal nature, for example, relating to a management decision or terms and conditions of employment should be dealt with using the relevant procedure, such as the Grievance Resolution Policy and Procedure. Any other personal complaints connected to an employee's working conditions, including allegations of harassment, bullying and discrimination would normally be dealt with by the line manager through day-to-day management action, or through appropriate GLAA Policies and procedures e.g. Dignity at Work Policy, Anti- Fraud policy or Bribery Policy. However, if it was considered that the concern was about a wider cultural issue of for example systemic bullying, that may be of public interest and can be raised.

6.3 Under the Official Secrets Act, it is a criminal offence for employees and former employees of the security and intelligence services, and for current and former Crown servants and Government Contractors to unlawfully disclose information in six specific categories:

- security and intelligence
- defence
- international relations
- information which may lead to the commission of crime
- information resulting from unauthorised disclosures or entrusted in confidence
- information entrusted in confidence to other states or international organisations.

6.4 Any concerns that could be covered by the Official Secrets Act follow should be reported following Option three in section 7.6.

6.5 Raising a concern covered by the Official Secrets Act externally outside of this procedure, for example with the media, campaign groups on social media, with political parties, could, constitute a crime and potential consequences could be disciplinary action and/or criminal sanction.

7. How do I report a concern?

7.1 Information you should provide:

- You will need to demonstrate that there are sufficient grounds for concern and provide enough information to enable the matter to be taken forward. You will need to set out the background to your concern including dates, names and places and the reason why you are particularly concerned. To help you do this you may wish to fill in the Protected Disclosures Reporting Form at Appendix 1.
- You should state whether you also wish to submit a separate grievance if the matter affects you directly.
- Ideally you should provide your own contact details. You may request that your identity is kept confidential and this will be respected. Alternatively, you may wish to contact the Head of People and Change (or, if you feel unable to do this, one of the other options as set out below) anonymously in writing. However, your concerns will be more difficult to address, and we will not be able to keep you personally informed of progress.

Options for raising concerns

Option one

- 7.2 Firstly, you should consider raising the concern with your own line manager or somebody within your line management chain. You should do this as early as possible.
- 7.3 Line managers will be expected to take your concern seriously and make a fair evaluation of its merits. They should treat your concern in confidence. If the concern relates to the operation of a policy which is “owned” elsewhere within the GLAA, they will wish to seek advice from the appropriate area of expertise. Line managers should not take any action without ensuring that they have discussed this with the Head of People and Change and/or the Chief Executive Officer. Protected Disclosures may raise issues that pose a significant risk to the organisation, which the Chief Executive Officer needs to be aware of.

Option two

- 7.4 If you feel unable to raise your concern with line managers, for whatever reason, you can raise it in writing via the GLAA e-mail protdischr@gla.gov.uk which is monitored by the Head of People and Change or directly to any other Director.
- 7.5 All correspondence should be marked “Official Sensitive - PERSONAL”.

Option three

- 7.6 If you have reported your concerns to line managers or via the email and you still have worries, or if you feel the matter is so serious that you cannot disclose it in either of these ways, you may wish to raise the issue directly with the Chief

Executive Officer as the Accounting Officer for the GLAA either in person or via email protdisc@gla.gov.uk.

- 7.7 If you have an issue that you feel unable to raise with the Chief Executive Officer, then this can be raised directly with the Chair of ARAC. They will ensure that it is properly investigated. An email can be sent to keith.rosser@gla.gov.uk. Please note the individual responsible for checking this inbox is a Non-Executive Director and does not work at the GLAA on a full-time basis, so please bear in mind that they will not be checking emails every day. Should you wish to, it is recommended that you contact the HR inbox (hr@gla.gov.uk) and the HR team will inform the Chair of ARAC accordingly, that they have an email to respond to.
- 7.8 If you have concerns about the operation of the Board then this should be raised with the Chief Executive Officer as the Accounting Officer using the detail set out above. The Home Office Sponsor would provide oversight in this instance.
- 7.9 GLAA is confident that there are sufficient internal avenues available to deal with any concerns raised. Concerns should not at any time be raised outside the prescribed routes listed in this procedure. For example, concerns must not be raised with the media, campaign groups, on social media or with political parties, under any circumstances. Please note that this list is not exhaustive. Raising a concern outside of the prescribed routes could, if it amounts to an unauthorised disclosure, result in disciplinary action. It may also breach the Official Secrets Act.

Support from your Trade Union Representative

- 7.10 You may also wish to contact your Trade Union Representative for advice. A Trade Union representative will be able to accompany you at any interviews which may be conducted as part of the follow-up investigation.

8. Independent Legal Advice

- 8.1 If you are unsure whether to use this procedure, or if you want advice at any stage, and feel you can only get answers you need by disclosing information externally you may obtain legal advice in the following ways:
- Independently from a lawyer (at your own expense).
 - From a lawyer at Protect. This is an independent charity and is a leading authority on public interest “Whistleblowing”. They can be contacted on their helpline via telephone number on [0203 1172520](tel:02031172520) or by completing their contact form online - <https://protect-advice.org.uk/contact-protect-advice-line>. Their web-site address is <https://protect-advice.org.uk>. Their advisers can give you free confidential advice on how to raise a concern about serious malpractice.
 - From a lawyer who is referred to you by your Trade Union representative. Your Trade Union representative will be able to advise you on how to proceed in general terms but will be unable to give you legal advice.

- Through the legal helpline of Health Assured, the GLAA employee assistance provider. These lawyers are independent of the GLAA. Their contact telephone number is 0800 028 0199.

9. Assurances – your safety and confidence

- 9.1 If you raise a genuine concern, it does not matter if it becomes apparent that you were mistaken, you will not lose your job or be discriminated against. The concern will be investigated in confidence, and you will be protected from any victimisation or harassment which may occur as a result. If you knowingly and/or deliberately make false allegations or statements, you will not be protected, and you may be subject to the Disciplinary Policy and Procedure.
- 9.2 If you ask for your name not to be revealed we shall endeavour to respect your wish. However, if the problem involves criminal matters and cannot be resolved without revealing your identity, for example, because you are required to give evidence in court, please consult HR for advice on how you should proceed, they may direct you to an alternative source of advice if appropriate.
- 9.3 If you decide to use one of the options above anonymously you will need to be aware that the GLAA will not then be able to protect you or keep you informed of progress of the investigation because we will not know who you are. You should carefully consider a decision to remain anonymous as this may significantly or completely hinder the ability to investigate the matter raised.
- 9.4 An instruction to cover up wrongdoing is itself a disciplinary offence. If told not to raise or pursue any concern, even by a person in authority, employees should not agree to remain silent. If asked to do so, employees should report the matter to HR or through one of the options above.

10. What happens next/how the matter will be handled

- 10.1 Initial enquiries will be made into your concern so as to find out the facts of the matter. This may lead to a more formal investigation. If the concern can be dealt with more appropriately under another set of procedures e.g. personal matters under the Grievance Resolution Policy and Procedure, you will be informed as soon as possible.
- 10.2 Your concerns will be dealt with fairly and appropriately without bias.
- 10.3 If you use one of the three options you will be provided with a formal acknowledgement within 10 working days of raising the concern. This will let you know who is dealing with the matter, how the GLAA intends to deal with it and the timing of any action. However, if the issues raised require criminal investigation we will not be able to advise you of any action or progress until the matter is finally concluded. We will advise you when the action is concluded unless contact with you is required during the course of the investigation.
- 10.4 You will be asked whether or not you have a personal interest in the matter. You may also be asked what you consider the solution to the matter raised should be.

- 10.5 HR will make anonymised records of your concern containing the date your concern was received, the details of the concern and how it was dealt with. These records will be used to help monitor the effectiveness of the Protected Disclosures (Whistleblowing) Policy by HR as well as to further any investigations which may be necessary. For any Disclosures received to the Chief Executive Officer or to ARAC, the basic details of the case will be provided to HR for the stated purposes above.
- 10.6 A central record of all cases will be kept by HR for administrative purposes and will be provided to the Board via the ARAC with an aggregated, anonymised summary at regular intervals. The Chief Executive will inform the ARAC and the Board of serious matters that have been referred for investigation as they occur.
- 10.7 By way of assurance to you, once the matter has been looked into you will receive information about the outcome of the action taken. However, it may not always be appropriate to disclose the full outcome if this could jeopardise other investigations.
- 10.8 The ARAC has, under the Board governance arrangements, responsibility for providing advice and retains oversight of any due process in any internal investigation arising from whistle blowing. Therefore, they will be advised when any concern is raised to ensure it is investigated fairly and to ensure that any changes that may be required are implemented. They will also be kept informed of progress on and conclusions to all matters raised under this policy.

11. How will the matter be investigated?

- 11.1 The Head of People and Change and/or the Chief Executive Officer depending on how a concern has been raised will determine if the reported concern falls under the Protected Disclosures (Whistleblowing) Policy and should be investigated or should be referred to a different route for investigation i.e. grievance or disciplinary procedures. The Investigating Manager should set the Terms of Reference for the investigation and may seek advice from the Head of People and Change or the Chief Executive Officer if needed. ARAC will be responsible for oversight of these decisions and action taken. If the allegation has been raised with the Chair of ARAC, then they will determine whether this matter can be dealt with by the Executive or requires investigation by an external body such as the Government Internal Audit Agency (GIAA).
- 11.2 The process for each individual investigation will depend on the nature of the allegations, and whether the protected disclosure/concern is reported anonymously or not. An investigation is an opportunity for the organisation to secure records relating to the concern and to openly and critically assess the issue. It is a fact-finding exercise with the emphasis on reviewing practice and identifying the underlying causes of events or concerns. They are intended to be a proportionate response to a concern.
- 11.3 Once an investigation is commissioned and Terms of Reference at Appendix 2 set and agreed, then a formal investigation will be launched. An Investigation Manager(s) will be appointed to undertake the investigation who will have had no prior involvement in the concern under investigation. The Investigation Manager will be independent of the complaint.

- 11.4 Individuals identified as holding information relevant to the investigation will be invited to meetings. They will be advised that the matter has been raised under the Protected Disclosures (Whistleblowing) Policy and Procedure and provided with a copy of the Terms of Reference for the investigation. Circumstances may dictate that obtaining a written or verbal statement from an individual is not possible. In such cases, where the Investigation Manager decides not to pursue a statement; their clear explanation should be noted in the record of investigation.
- 11.5 Employees attending meetings will be reminded that confidentiality in the matter must be maintained at all times. Once an investigation has started, all employees including the whistleblower will be treated as witnesses in the investigation of the concern. Witnesses may be accompanied by a Trade Union Representative or workplace colleague when attending investigation meetings.
- 11.6 Meetings with key individuals will be conducted either face to face or via telephone in a non-judgemental atmosphere. The meetings are not disciplinary interviews and are conducted to encourage co-operation to assist with the establishment of the facts. However, should any potential misconduct be identified during the course of the investigation, the Investigation Manager will be obliged to raise this with the Head of People and Change or the Chief Executive. The evidence may lead to action under the GLAA's Disciplinary Policy and Procedure being initiated. A record of the meeting will be made in writing and a summary of the salient points of the meeting made available to the individual for comment. Any potential supporting documentation related to the concern will be kept securely. If for any reason it is not appropriate for the supporting documentation to be kept on the shared drive, advice should be sought from the Data Protection Officer.
- 11.7 The aim of the investigation is to establish the details of the concern and is not to hold a particular individual to account. Where a potential disciplinary offence is discovered, this will be dealt with under the Disciplinary Policy and Procedure. Where a potential criminal offence is identified, it will be referred to the appropriate authority as outlined below. If at any point in the investigation the matter is determined not to fall under the Protected Disclosures (Whistleblowing) Policy and Procedure, it will be referred back to the Head of People and Change and/or the Chief Executive Officer.
- 11.8 Throughout any investigation, the whistleblower will be expected to continue their duties/role as normal unless deemed inappropriate. If the person raising the concern, wishes to be kept informed of progress, the Investigating Manager will seek to provide updates as far as is reasonably possible and advise when a matter has been concluded. It cannot be guaranteed that all the details of the investigation can be given or that the final outcome will be disclosed. Security and confidentiality must be maintained for all parties. In the event of a formal investigation or the involvement of police, it may not be possible or appropriate to provide full details.
- 11.9 At the conclusion of the investigation the Investigation Manager will supply the Head of People and Change and/or the Chief Executive Officer with a copy of the report setting out the findings. They will report the position to the Chair of ARAC. All records and correspondence should have the appropriate protective marking and be kept securely in the HR drive in line with the organisation's Records

Management Retention and Disposal Policy and in compliance with the requirements of the Data Protection Act 2018.

- 11.10 Once an investigation is finalised the exact process will depend on the circumstances and outcome of the investigation. Any recommendations from an investigation will be reported to the Head of People and Change and/or the Chief Executive Officer to disseminate to the relevant business areas and will be reported to ARAC and the Board as appropriate.
- 11.11 An investigation into alleged criminality, carried out by the police or one of the oversight bodies (IOPC) will follow along different lines and is outside the scope of this policy. However, the relevant body will be advised that the individual came forward as a whistleblower under the PIDA/ERA.
- 11.12 The Head of People and Change and/or the Chief Executive Officer will consider what information can be provided, if any, to those that have been involved in the investigation.

12. Changes to Policy and Procedure as a result of a Protected Disclosure

- 12.1 If changes are made to GLAA policies and procedures as a result of a protected disclosure investigation, the GLAA will highlight the changes to employees, taking into consideration the importance of protecting the anonymity and confidentiality of individuals. This will also be shared with the Board for review and approval in line with the governance of this policy.

13. External Contacts

- 13.1 PIDA also protects the disclosure of concerns to a number of appropriate public authorities as below, and there may be instances where you could properly report your concerns to such an authority. Protect, your Trade Union Representative or advice from an external lawyer or lawyers at Health Assured as noted as section 8 above will be able to advise on the circumstances in which you can report concerns directly to a public authority and which the right authority is.

The legislation sets out a number of bodies to which qualifying disclosures may be made. These include:

- HM Revenue & Customs;
- the Financial Conduct Authority;
- the Competition and Markets Authority;
- the Health and Safety Executive;
- the Environment Agency;
- the Independent Office for Police Conduct; and

- the Serious Fraud Office.

13.2 You should also be aware that your disclosure will not be protected if you commit a criminal offence in disclosing it such as breaking the Official Secrets Act. So, if you make a disclosure to someone outside the internal Protected Disclosures (Whistleblowing) Policy and Procedure and if what you say breaches the Official Secrets Act, then you may be subject to criminal and/or Disciplinary action.

14. What happens if you feel you are being victimised or harassed as a result of making a disclosure?

- 14.1 If, as a result of making a disclosure, you feel that you are being victimised or harassed you should raise this with your line manager, in the first instance. If you feel unable to do so you should formally contact a manager within your management chain or the Head of People and Change or the Director of Operations. Any confirmed cases of victimisation or harassment will be subject to the Disciplinary Policy and Procedure.
- 14.2 No individual will be victimised or caused a detriment for raising a matter under this procedure. This means that the continued employment and opportunities for future promotion or training of the individual will not be prejudiced because they have raised a legitimate concern.

15. Data Protection

- 15.1 When an individual makes a disclosure, the GLAA will process any personal data collected in accordance with the Data Protection Policy. Data collected from the point at which the individual makes the report is held securely and accessed by, and disclosed to, individuals only for the purposes of dealing with the disclosure.

Appendix 1:

Documents available internally:

- Protected Disclosures Reporting Form
- Terms of Reference for Protected Disclosure Investigations
- Flowchart for raising a Protected Disclosure (Whistleblowing)