

“Whistleblowing” Policy and procedure

1. Policy Statement

- 1.1 As set out in our Values, MOPAC aims to conduct its business with honesty and integrity. In order to maintain high standards, it is essential that everyone working for MOPAC shares this aim and feels able to raise any concerns they have about the way business is being conducted. The Policy is designed to deal with concerns raised in relation to suspected wrongdoings, and which fall outside the scope of other policies and procedures.
- 1.2 MOPAC aims to ensure that the process for raising such concerns is simple, effective and confidential wherever possible. MOPAC also aims to create an environment in which staff feel able to follow the process without fear of any reprisals being taken against them.

2. Introduction

- 2.1 This policy enables staff to raise concerns about malpractice at an early stage and in the right way. MOPAC would rather that staff raised the matter when it is just a concern rather than wait for proof.
- 2.2 If something is troubling a member of staff that they think MOPAC should know about or look into, they should use this policy. Whilst disclosures can be made to outside bodies or organisations, staff are strongly encouraged to raise concerns within MOPAC in the first instance even if at that stage the evidence is inconclusive. This procedure is not to be used by a member of staff in the event of a complaint about their employment, such as terms and conditions of work, relationships with their manager or colleagues, discrimination, bullying or harassment. These matters are dealt with under other appropriate policies. Advice is available from the HR Unit.
- 2.3 It should be emphasised that the Policy, in accordance with the Public Interest Disclosure Act, is concerned with alleged malpractice, impropriety or any type of wrongdoing in the workplace. It is not designed to provide a route through which individuals can publicly question financial or business decisions taken by MOPAC, and it offers no protection to such individuals. Neither may the Policy be used to obtain an internal rehearing of matters which have already been addressed under other appropriate MOPAC procedures.

3. Scope

- 3.1 This policy applies to anyone who is:
 - 3.1.1 employed on a permanent or fixed term contract of employment

- 3.1.2 on secondment to MOPAC
 - 3.1.3 on a temporary contract or employed through an agency to work for MOPAC
 - 3.1.4 an independent consultant for MOPAC; or
 - 3.1.5 contractors and suppliers of services to MOPAC
- 3.2 This policy does not form part of any employee's contract of employment and MOPAC may amend it at any time.

4. Guiding principles

- 4.1 To ensure that this policy is adhered to, and to assure staff that the concern will be taken seriously, MOPAC will:
- 4.1.1 investigate all reported concerns
 - 4.1.2 not allow the person raising the concern to be victimised for doing so
 - 4.1.3 treat victimisation of whistleblowers as a serious matter, that may lead to disciplinary action that may include dismissal
 - 4.1.4 not attempt to conceal evidence of poor or unacceptable practice
 - 4.1.5 take disciplinary action if a member of staff destroys or conceals evidence of poor or unacceptable practice or misconduct
 - 4.1.6 ensure confidentiality clauses in employment contracts and related documents do not restrict, forbid or penalise whistleblowing
- 4.2 Everyone should be aware of the importance of preventing and eliminating wrongdoing at work. Staff should be watchful for illegal or unethical conduct and report anything of that nature of which they become aware.

5. The Public Interest Disclosure Act 1998 and the Enterprise & Regulatory Reform Act 2013

- 5.1 The provisions introduced by these Acts protect employees from being subjected to a detriment by their employer if they disclose information deemed to be in the public interest. "Detriment" is defined in a number of ways including denial of promotion, facilities or training opportunities that the employer would otherwise have offered.
- 5.2 Staff who are protected by the provisions may make a claim for unfair dismissal if dismissed for making a protected disclosure. In addition staff that have been subjected to detriment by their employer for making a protected disclosure may, after exhausting internal procedures, make a claim to an Employment Tribunal.

6. Whistleblowing

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6.1 Whistleblowing is the disclosure of information which relates to suspected wrongdoing or dangers at work whether in the past, now or likely to happen in the future. This covers:

- 6.1.1 Criminal activity;
- 6.1.2 Failure to comply with any legal requirement;
- 6.1.3 Miscarriages of justice;
- 6.1.4 Dangers to health and safety;
- 6.1.5 Damage to the environment;
- 6.1.6 The deliberate concealment of any of the above matters.

7. Protection

- 7.1 Certain kinds of disclosure qualify for protection and are disclosures of information which the person reasonably believes tend to show one or more of the following matters is either happening now, took place in the past or is likely to happen in the future.
- 7.2 Disclosure in such circumstances is protected whether malpractice is occurring in the UK or overseas and whether or not the information is confidential. A disclosure of information will not qualify for protection if the person making the disclosure commits a criminal offence by making it, and so the legislation does not for example exempt any MOPAC staff who are contractually covered by the Official Secrets Acts 1911 and 1989.

8. Raising a Whistleblowing Concern

- 8.1 The Senior Management Team is committed to this policy and the Head of Human Resources 'leads' on this issue on their behalf as Monitoring Officer for MOPAC.
- 8.2 If a member of staff raises a genuine concern under this policy, they will not be at risk of losing their job or suffering any form of retribution as a result. Any member of staff who makes a disclosure and feels that as a result they have suffered adverse treatment, will be able to raise a formal complaint. The complaint should be made to the HR Unit. If the complaint is upheld against the individual(s) responsible, then action will be taken as outlined in the Discipline Policy and Procedure.
- 8.3 If a person makes false allegations maliciously, they may be subject to disciplinary action. The decision as to whether the allegation was made maliciously or vexatiously will be taken after a fact finding enquiry in accordance with the Discipline Policy and Procedure.

9. Confidentiality

- 9.1 The Senior Management Team will not tolerate the harassment or victimisation of anyone raising a genuine concern. However, it is recognised that a member of staff may nonetheless want to raise a concern in confidence under this policy. If a member of staff asks the Head of HR to protect their identity, their identity will not be disclosed without

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their consent. However, if an individual is the subject of an inquiry, that person is entitled to know the nature of the allegations being made and any person criticised as a result of an inquiry has the right to be told the nature of the evidence upon which the criticism has been based.

9.2 If the situation arises where the Head of HR is not able to resolve the concern without revealing the member of staff's identity they will discuss with the member of staff whether and how the matter can be pursued.

9.3 Staff should be aware that should they make a disclosure anonymously, it may be much more difficult to look into the matter or to protect the member of staff's position or to give them feedback.

10. Support

10.1 It is recognised that being involved in such matters can sometimes be very stressful for the whistleblower and others involved in the process. Guidance and support is available from the HR Unit where appropriate who will, for example, be able to give details of the Occupational Health services available.

11. Procedure for dealing with a disclosure internally

11.1 If a member of staff has a concern about malpractice, the disclosure should be discussed in the first instance with their line manager or another person whom they reasonably believe to be solely or mainly responsible for the relevant failure. This may be done orally or in writing. If the concern is raised orally, the person receiving the information should put it in writing as soon as practicable to ensure that it properly reflects the concerns that have been raised.

11.2 A member of staff can contact the HR Unit for advice on how best to proceed.

11.3 If the member of staff feels unable to raise the matter through either of these channels, if they believe the line manager to be involved or if they feel that the matter is so serious that they cannot discuss it with them, the member of staff should contact the Head of HR. If for any reason the member of staff does not feel it would be appropriate to raise the matter with the Head of HR, they may raise it directly with the Chief Executive.

11.4 It is recognised that for some individuals, raising a concern under this procedure may be a daunting and difficult experience. An individual may choose to be accompanied at any stage of this procedure. Once the member of staff has told the Head of HR of their concern, it will be looked into to assess initially what action should be taken.

11.5 The action taken will depend on the nature of the concern and may be:

11.5.1 resolution by agreed action without the need for investigation

11.5.2 an internal investigation

11.5.3 referral to the Police

11.5.4 referral to an external professional body

11.5.5 an independent inquiry

11.6 The Head of HR will write to them summarising the concern and setting out how it will be handled. When a member of staff raises the concern they may be asked how they think the matter might best be resolved. If a member of staff has any personal interest in the matter, they should say so at the outset.

11.7 The whistleblower will be given as much feedback as appropriate. However, it may not be able to tell the whistleblower the precise action taken where this would infringe a duty of confidence owed to someone else.

11.8 In addition, members of staff have the option of contacting the Right Line, run jointly by the Metropolitan Police Service's Directorate of Professional Standards (DPS) and Directorate of Audit, Risk and Assurance. The Right Line automated answer phone can be contacted on extension 65599 (020 7230 5599). By selecting the correct option after the recorded message members of staff can pass on information or suspicions about criminal conduct or malpractice by any members of staff. Outside of office hours an answer phone facility exists to report matters of wrongdoing.

11.9 Where messages have been recorded that require an urgent response a facility now exists that will allow the on-call officer to access the message and assess the nature of the concern and task the appropriate officer at DPS/Directorate of Audit, Risk and Assurance to contact the member of staff.

12 The investigation

12.1 If an investigation is required, the Head of HR will appoint an appropriate officer to investigate the concern. That officer will, as soon as possible, write to the member of staff indicating how they propose to deal with the matter and giving them an estimate of how long the investigation will take.

12.2 In order to give full consideration to a disclosure it is likely that one or more fact finding meeting will take place. If the investigating officer needs the whistleblower to attend these meetings they can be accompanied by a fellow employee of their choice or a trade union representative

12.3 The member of staff will be able to confer with their companion during the course of the meeting and they may address the meeting but may not answer questions on the whistleblower's behalf. Individuals under investigation may also be accompanied by a fellow employee of their choice who may be a friend or colleague, or a trade union representative. The individual under investigation will not be asked to attend a meeting where the person who made the disclosure is also present.

12.4 The investigating officer will follow these steps:

12.4.1 obtain full details and clarifications of the disclosure

12.4.2 inform the member of staff against whom the disclosure is made as soon as is practically possible. The member of staff will be informed of their right to be accompanied by a

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trade union or other representative at any interview or hearing held under the provision of these procedures

- 12.4.3 consider if the involvement of MOPAC auditors and/or the police is appropriate, in consultation with the Head of HR
- 12.4.4 fully investigate the case with the assistance where appropriate, of other individuals/bodies.
- 12.4.5 make a judgement concerning the disclosure and validity of the disclosure. This judgement will be detailed in a written report containing the findings of the investigations and reasons for the judgement. The report will be passed to the Head of HR.
- 12.4.6 The Head of HR will then decide what action to take. The whistleblower should be kept informed of the progress of the investigations and, if appropriate, of the final outcome. If appropriate, a copy of the outcomes will be passed to the Director of Audit, Risk and Assurance to enable a review of the procedures. If the whistleblower is not satisfied that their concern is being properly dealt with by the investigating officer, they has the right to raise it in confidence with the Chief Executive.

12. Record keeping and reporting

12.1 The Head of HR will keep a corporate register of any whistleblowing disclosures. This will be kept securely and only the post holder will have access to it. The register will not name any staff, only the concerns raised, the number of such concerns, the parts of MOPAC to which they related, and indicating any lessons arising from the same, with a view to all information on the register maintaining the confidentiality of any individuals who have made whistleblowing disclosures. An annual report will be produced for the Senior Management Team summarising whistleblowing concerns raised over the past year.

12.2 The records will be destroyed after eight years.

13. Timescales

13.1 Due to the varied nature of these sorts of disclosures, which may involve internal investigators and/or the police, it is not possible to specify precise timescales for such investigations. The investigating officer should ensure that the investigations are undertaken as quickly as possible without affecting the quality and depth of those investigations. The Head of HR, should as soon as practically possible, send a written acknowledgement of the concern to the whistleblower and thereafter report back to them in writing the outcome of the investigation and on the action that is proposed. If the investigation is a prolonged one, the Head of HR should keep the whistleblower informed, in writing, as to the progress of the investigation and as to when it is likely to be concluded. All responses to the whistleblower should be in writing and sent to their home address.

14. Making a disclosure externally to a prescribed person or body

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14.1 This policy is intended to provide staff with an avenue to raise concerns within MOPAC. MOPAC hopes staff will be satisfied. If they are not, and feel that it is right to take the matter outside MOPAC, staff may make disclosures to a prescribed external person or body. If a member of staff makes a qualifying disclosure to such a person, it will be protected providing they make the disclosure:

14.1.1 in the public interest

14.1.2 reasonably believing the information and any allegations are substantially true

14.2 and the matter falls within the description of matters for which the person(s) or body(ies) has been prescribed. (For example, breaches of Health & Safety may be brought to the attention of the Health & Safety Executive).

14.3 If staff do take this matter outside MOPAC, they need to ensure that they do not disclose confidential information.

14.4 An up to date list of the prescribed bodies is available on <https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies>

15. Independent advice

14.1 Members of staff who are unsure whether to use this policy or who want independent advice at any stage, may contact:

14.1.1 if applicable, their union representative

14.1.2 the independent charity Protect on 020 7404 6609 or email: helpline@pcaw.co.uk. Their lawyers can give free confidential advice at any stage about how to raise a concern about serious malpractice at work

14.1.3 and may also find it helpful to read the help and advice on www.whistleblowing.org.uk

16. Law relating to this document

15.1 Employment Rights Act 1996 Public Interest Disclosure Act 1998 Public interest Disclosure Act (Prescribed Persons) Order 1999 Enterprise and Regulatory Reform Act 2013

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