

**MANAGEMENT BOARD****Policy on Disclosing Malpractice ('Whistleblowing')*****Note by Head of Pay, Policy and Employee Relations*****Purpose**

1. This note summarises the background to the development of a policy on Disclosing Malpractice ('Whistleblowing') in the House of Commons and includes re-drafted policy guidance for inclusion in the Staff Handbook.

**Action**

2. The Board is asked to agree revised policy guidance on disclosing malpractice ("Whistleblowing") as set out in the annex.

**Consultation**

3. The Head of Internal Audit was consulted on the development of this policy.

**Current policy**

4. The House of Commons is not covered by the Public Interest Disclosure Act 1998 which gives protection to "whistleblowers" that raise concerns about serious fraud or malpractice at their place of work against victimisation or dismissal, provided they have acted in a responsible way in dealing with their concerns. The current arrangements for disclosing malpractice ('Whistleblowing') set out in the Staff Handbook are as follows:
  - paragraph 5.28 (crises of conscience) deals with circumstances where staff feel they are being asked to do something wrong;
  - paragraph 5.31 deals with allegations of dishonesty, covering mainly suspected fraud and other criminal activity.
5. As it stands paragraph 5.28 refers only to matters which directly concern the individual. Paragraph 5.31 covers most but not all conceivable circumstances where whistle blowing might be justified, but concentrates more on the treatment of the person against whom an allegation is made rather than on the whistleblower.

## Recent developments

6. In January 2009, following consideration of an internal audit of the Parliamentary Estates Directory, the Administration Estimate Audit Committee (the “Audit Committee”) asked for details of the House’s whistleblowing procedures. In February 2009 the Management Board considered a paper from the Director of HRM&D which proposed strengthening the existing arrangements. The Management Board agreed the approach set out in the paper but decided that a simple term other than whistleblowing should be used. The Board felt it was important to reinforce its expectation that staff should raise any concerns in-house, and thereby avoid a situation where they felt justified in disclosing suspected malpractice to outside organisations because they believed there to be no in-house procedures.
7. In July 2009 the Audit Committee was informed of the Management Board’s decision that the guidance on whistleblowing in the staff handbook should be “redrafted to make it more comprehensive”. The Committee requested sight of the redrafted guidance once it was available.
8. In November 2009, the Committee on Standards in Public Life recommended that “effective whistleblowing procedures should be introduced by the independent regulator and by the House of Commons” (Recommendation 59), having received evidence from Elizabeth Filkin of a “lack of formal whistleblowing procedures”.

## Revised policy and next steps

9. In light of these developments the Board is asked to agree the revised policy on Disclosing Malpractice (‘Whistleblowing’) attached as an annex to this paper, noting that contrary to the Board’s previous decision, the term “whistleblowing” is used. The guidance has been redrafted to:
  - make it more comprehensive (i.e. covering all potential ‘whistleblowing’ situations, not just some of them);
  - bring all the elements together in a single place;
  - make the drafting more accessible to staff at all levels;
  - make it clear that staff who report suspicions in good faith need not fear adverse consequences.
10. If the Management Board is content with the policy, it will be included as an addendum to the Staff Handbook following normal consultation with the Trade Unions.
11. In addition it is proposed that House induction courses will be amended to cover the policy and awareness of the revisions will be transmitted by managers to their teams.

**Reg Perry**  
**Head, Pay, Policy and Employee Relations**

**14 January 2010**

## **Policy on Disclosing Malpractice or Impropriety ('Whistleblowing')**

### **Chapter aims.**

1. The chapter will help you:
  - understand the House policy on disclosing malpractice or impropriety
  - outline the procedures to be followed
  - explain what will happen as a result.

### **When this policy applies**

2. The House of Commons Service is committed to maintaining the highest standards of professionalism and integrity. We serve the House of Commons, its Committees and Members, and the public, with honesty, probity and political impartiality. The House will therefore treat malpractice or impropriety very seriously whether it is committed by managers, employees, suppliers, or contractors.
3. Although the House of Commons service is not covered by the Public Interest Disclosure Act 1998 (PIDA) the procedures below are intended to be broadly in line with the Act. The procedures are designed to encourage and enable employees to raise serious concerns within the House of Commons service, rather than overlooking a problem or "blowing the whistle" outside the organisation. Employees are often the first to realise that there may be something seriously wrong within an organisation and this policy provides a means for them to raise concerns so that these can be investigated properly, sensitively, and in confidence. It is also designed to ensure that individuals are protected from suffering detriment if they have a reasonable belief that they raised a concern in good faith.
4. These procedures provide a means of dealing with issues of malpractice or impropriety such as:
  - criminal activity
  - abuse of office or position, for instance fraud (but see also the Fraud Policy), corruption, bribery or blackmail
  - failure to comply with any legal duty
  - a miscarriage of justice (or deliberate and serious misrepresentation of information)
  - endangering the health and safety of an individual or groups of individuals, including risks to the public
  - environmental damage
  - any attempt by any person to deliberately conceal any of the above.
5. Our policy additionally covers any conduct not included above which appears likely to harm the reputation of the House of Commons Service.
6. There are existing Staff Handbook policies designed to resolve concerns on:
  - Grievances

- Equal opportunities
  - Discipline matters
  - Performance management
  - Health and safety
  - Security
  - Fraud
7. The procedures to be followed in raising and dealing with such issues under these policies are set out in the relevant paragraphs of the Staff Handbook, and the House Fraud policy [\[link\]](#).

## **Confidentiality and Anonymity**

### **Confidentiality**

8. In raising a concern about wrongdoing we will endeavour to make sure that only those House of Commons employees investigating it will know your identity. All concerns will be treated in confidence and every effort made to not reveal your identity outside this group except:
- where we are legally obliged to do so
  - where the information is already in the public domain
  - on a strictly confidential basis to professionally qualified lawyer, accountant or other professional when getting advice
  - to the police in any follow up proceedings involving a criminal investigation.
9. If there are any other circumstances in which we are required to reveal your identity outside those identified above, for instance if concerns cannot be resolved without revealing the identity of the employee raising the concern (i.e. if evidence is required in court), we will discuss this with you first and appropriate support will be provided to you.

### **Anonymous Allegations**

10. Concerns that are expressed anonymously are much less capable of being investigated but will be considered at the discretion of the investigator in discussion with the Director General of Resources (or if the allegation implicates them with another member of the Management Board). In exercising this discretion factors to be taken into consideration include the:
- seriousness of the issues raised
  - credibility of the concern
  - likelihood of being able to confirm the allegation from attributable sources.

### **Untrue Allegations**

11. If you have a reasonable belief that you are making an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against you as a result of making the allegation. If however the investigation shows, or it subsequently becomes clear, that you make an allegation frivolously, maliciously, vexaciously, or for personal gain, disciplinary action may be taken against you.

## **What Happens if I am Implicated?**

12. If you raise concerns and actively cooperate with an investigation in which you may be implicated in any wrongdoing, you are likely to receive a lighter sanction than might otherwise have been the case (unless the misconduct is so serious that no amount of cooperation or other mitigating conduct can justify this).

## **The Procedure**

### **How to raise your concern**

13. If you have a concern regarding malpractice or impropriety of the type set out above you should:
  - wherever possible first raise concerns with your immediate manager or within your line management chain. This can be done face-to-face or in writing
  - if you believe that your line management is involved you should approach your Head of Section, Director or Director General
  - allegations which involve your Head of Section, Director or Director General, or other senior staff should be made to the Director General of Resources or, if your allegation implicates the Director General of Resources, to the Clerk of the House
  - allegations involving the Clerk of the House should be addressed to the Head of the Internal Audit.
14. A register of all allegations made under this policy will be kept by the Department of Resources.
15. Where possible you should raise your concerns in writing setting out the background and history of your concerns (giving names, dates, and places where possible) and indicating the reasons for your concerns. You should make it clear you are raising concerns under the Disclosing Malpractice or Impropriety Policy.
16. You must not raise your concerns outside the House of Commons administration (for instance the press/media) without first giving the House authorities the opportunity to address them internally. However if you feel you need independent advice at any stage of the process you may contact the independent charity Public Concern at Work (<http://www.pcaw.co.uk/index.htm>). They can be contacted on 020 7404 6609. Public Concern at Work gives free and confidential advice on disclosure of malpractice matters.
17. Disclosing concerns to anyone outside the House of Commons without first following the House of Commons Disclosing Malpractice procedures could result in disciplinary action.

### **What happens after you raise a concern?**

18. Following discussions with you the person to whom you have reported your concern will decide how to proceed. Preliminary enquiries may be made to decide whether a further investigation is appropriate and, if so, what form it should take.

Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required this will be taken before any investigation is conducted (for example on health and safety issues).

19. You will be informed if following preliminary enquiries, the person you raised your concern with decides that an investigation would be inappropriate and the allegation is effectively dismissed, for instance if it is decided:
  - there is no substantive case to the allegation
  - the issue is trivial
  - the normal grievance procedure is more appropriate.
20. Where an investigation is not carried out you may appeal to the Director General of Resources, or, if they were involved in the decision, to another member of the Management Board.
21. If it is decided that an investigation is merited the person you have raised the concern with may investigate the allegation themselves, or appoint another independent investigator.
22. It is not always possible to follow exactly the same procedure as circumstances change in each case, and it is important that any investigation is proportionate and as independent as possible. However if a further investigation is required the investigation will generally follow the steps set out below:
  - the investigator will obtain as full details as possible
  - any members of staff required to attend meetings held as part of the investigation can be accompanied by a fellow employee of their choice, who may be a friend or colleague, or a trade union representative
  - you will be kept informed of any investigation, and any action taken in relation to your concern.
23. The investigator will, in consultation with the Director General of Resources where appropriate, consider whether to involve the House of Commons' auditors or the police. There may be occasions where it is appropriate that external investigations, such as those by the police, are undertaken before any formal internal investigation.
24. Due to the varied nature of potential allegations under these procedures and the possibility of police involvement it is not possible to lay down precise timescales for investigations. The investigator will aim to ensure that the investigation is undertaken as expeditiously as possible, without affecting the quality and depth of the investigation.

### **What happens after the investigation?**

25. The investigator will write a report setting out their findings in relation to the allegation, containing a conclusion as to its validity, and a recommendation for further action. The report will be sent to:
  - the relevant Director General of the area concerned,

- if the Director General of the area concerned is implicated to the Director General of Resources,
  - if the Director General of Resources is implicated, to the Clerk of the House
  - if the Clerk of the House is implicated to the Head of Internal Audit
26. They will decide what action, if any, to take. If the allegations are shown to be justified appropriate action will be taken as expeditiously as possible. If malpractice is found to have taken place, those staff of the House responsible may be subject to House of Commons' disciplinary procedure.
27. Where evidence supports an allegation, and it is believed a member of staff is implicated the investigator will inform the member of staff against whom the allegation is made, and the evidence supporting it, and the member of staff will be allowed to comment before the investigation is concluded and the report made.
28. The outcome of the investigation will be communicated to
- you as the person raising the concern, as far as is possible without any infringement of a duty of confidence owned by us to someone else
  - staff who were interviewed as part of the investigation
  - the House of Commons Management Board
  - if appropriate to external authorities who may need to consider whether other action should be taken on the basis of the findings.
29. Records of proceedings will be kept for seven years by the Department of Resources, after which they will be reviewed and destroyed unless there are effective reasons for their further retention.