

# MERSEYTRAVEL



## Confidential Reporting (Whistleblowing) Policy

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## 1. Purpose

This Policy establishes the arrangements for the reporting of concerns (“whistleblowing”) by a Merseytravel employee and others, including agency / temporary workers, contractors and trainees. It outlines how a concern can be raised internally, rather than overlooking the matter or “blowing the whistle” externally.

Merseytravel has adopted this Confidential Reporting (Whistleblowing) Policy and associated guidance to advise those to whom the Policy applies how to raise concerns confidentially and without fear of victimisation, subsequent discrimination or disadvantage.

This Policy and guidance aims to:

- Encourage you to feel confident in raising serious concerns;
- Reassure you that Merseytravel takes Confidential Reporting (Whistleblowing) seriously;
- Provide avenues for you to raise those concerns and receive feedback on any action taken;
- Ensure that you receive a response to your concerns and that you are aware of how to pursue them if you are not satisfied; and
- Reassure you that you will be protected from possible reprisals or victimisation if you have a reasonable belief that you have made any disclosure in the public interest and in accordance with the Protected Disclosure Provisions.

This policy does **not** replace the corporate complaints procedure, Disciplinary Policy or the Grievance Policy.

## 2. Definitions

Confidential Reporting or “*Whistleblowing*” is the term used when an employee raises a concern about wrongdoing or malpractice in the workplace that has a public interest aspect to it. Officially this is called “making a disclosure in the public interest”. Whistleblowing is important to protect and reassure the workforce, and to maintain a healthy working culture and an efficient organisation<sup>1</sup>.

A *grievance* or private complaint is a dispute about an employee’s own employment position and has no public interest dimension. The **Merseytravel Grievance Policy** exists to enable an employee or group of employees to raise a grievance or complaint relating to their own employment.

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<sup>1</sup> National Audit Office: Making a Whistleblowing Policy at Work (March 2014)

## 3. Policy Statement

Merseytravel will;

- Investigate all concerns which fall within the scope of this Policy;
- Respond quickly when concerns are raised;
- Inform persons bringing concerns forward of the outcome of any investigation subject to legal constraints;
- Treat all concerns in confidence and every effort will be made not to reveal the identity of the *Whistleblower* without consent, unless required by law.
- Not tolerate harassment of employees or any other person who brings forward a concern;
- Endeavour to ensure that employees are not discriminated against or suffer detriment as a result of raising a concern; and
- Will take appropriate action in the event of an individual suffering detriment as a result of raising a concern.

## 4. Scope

Merseytravel's Whistleblowing arrangements are in accordance with the Whistleblowing Arrangements Code of Practice (PAS 1998:2008).

Protection for employees who "whistleblow" is documented in The Public Interest Disclosure Act (PIDA) 1998. A summary of the main provisions of the PIDA is attached at Appendix A of this Policy and Guidance.

This Policy covers employees and others, including agency / temporary workers, contractors and trainees. There is no minimum period of service and no upper age limit.

Merseytravel's Confidential Reporting (Whistleblowing) Policy is intended to cover any concerns that fall outside the scope of other procedures. Examples of disclosures that may be made under this policy include (but are not limited to):

- Conduct which is an offence or a breach of law;
- Disclosures related to miscarriages of justice;
- Health and safety risks, including risks to the public as well as other employees;
- Damage to the environment;
- Breach of Merseytravel policy and procedures;
- The unauthorised use of public funds;
- Possible fraud, bribery and corruption; and
- Other unethical conduct. This may include falsification or concealment of information, breach of confidentiality and making potentially libellous, untrue or slanderous comments.

The above list is not exhaustive.



## 5. Policy Evaluation

Evaluation of the policy will be undertaken as appropriate by the Merseytravel Audit, Risk & Governance Board. Revisions to this Policy will be subject to formal approval by Merseytravel.

## 6. Responsibilities

The Director General (Chief Executive) has overall responsibility for the maintenance and operation of the procedures detailed in this policy.

The Head of Internal Audit is responsible for the implementation and day to day monitoring of this policy and making staff aware of this Policy.

Merseytravel is committed to the highest legal, ethical and moral standards in the conduct of its business. In line with that commitment we expect employees who are either aware of malpractice, or suspect it, to report it in accordance with this Policy.

When bringing forward a concern it is the responsibility of individual employees to have a reasonable belief that the concern raised is substantially true and is made in the public interest. An employee doing so will be protected against recriminations, victimisation or harassment. This applies even if, after investigation, the disclosure is found to be incorrect or unfounded.

All concerns will be treated in confidence and every effort will be made not to reveal the identity of the Whistleblower without consent, unless required by law. However, a Whistleblower may be asked to make a statement or come forward as a witness, for example, during disciplinary proceedings.

If an allegation is found to have been made when known to be false, this will not be protected as the disclosure cannot be in the public interest. Such allegations will be treated as serious misconduct and may result in disciplinary action against the employee who made the disclosure.

Merseytravel will uphold the principles of employment and criminal law and protect as far as it is reasonable to do so, the rights of the accused.

Any investigation into allegations of potential malpractice will be conducted with confidentiality and will not influence or be influenced by any disciplinary or redundancy procedures that already affect you.

All employees should familiarise themselves with this Policy and if necessary, seek clarification from their Line Manager, or any of the officers detailed in the contact list at Appendix B.



## 7. Guidance

### **How to Raise a Concern**

Where you have a concern which falls under the scope of the Policy, Merseytravel encourages you to raise your concerns internally, rather than overlooking the matter or “blowing the whistle” externally. You should normally raise your concerns initially with your immediate supervisor or manager. However, dependent on the seriousness and sensitivity of matter you may choose to raise your concerns outside of your direct line management. A list of contact officers with whom concerns can be confidentially raised or further advice and guidance can be sought is attached as Appendix B.

Concerns may be raised verbally or in writing. The earlier you express the concern the easier it is for Merseytravel to take appropriate action.

Although you are not expected to prove beyond doubt the truth of an allegation, you will need to demonstrate to the person contacted that there are reasonable grounds for your concern.

You may wish to consider discussing your concern with a colleague first and you may find it easier to raise the matter if there are two (or more) of you who have the same concerns.

You may invite your trade union, professional association representative, a friend or legal advisor to be present during any meetings or interviews in connection with the concerns you have raised.

### **Anonymous Allegations**

You are encouraged to put your name to your allegation whenever possible. Concerns expressed anonymously can be more difficult to investigate / substantiate but will be considered at the organisation’s discretion.

In exercising this discretion the factors to be taken into account would include:

- The seriousness of the issues raised;
- The credibility of the concern; and
- Available evidence / sources from which to substantiate the concern.

### **Untrue Allegations**

In accordance with the Enterprise and Regulatory Reform Act 2013, there is no requirement for disclosures to be true in order for Whistleblowers to receive statutory protection. Therefore, if you report a suspicion of malpractice that is found not to be substantiated following an investigation, you will be protected under the Confidential Reporting (Whistleblowing) Policy.



However, any allegation that you make which you know to be false is not protected, as the disclosure would not be in the public interest. This could result in formal disciplinary action being taken against you.

## **How Merseytravel will Respond to a Concern**

Merseytravel will respond to your concerns. However, investigating your concerns is not the same as either accepting or rejecting them.

There may be a range of issues raised under this Policy and, depending upon the nature of the complaint, the most appropriate officer to investigate will be determined.

Concerns or allegations which fall within the scope of specific Policies and procedures (for example, discrimination issues) will normally be referred for consideration under those procedures.

In order to protect individuals and those that are the subject of a concern, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take, in accordance with the Merseytravel Investigation Protocol. If appropriate, an issue may be referred to the Police or to Merseytravel's appointed External Auditor.

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.

Within ten working days of a concern being raised, the person to whom you made the complaint in the first instance will write to you:

- Acknowledging that the concern has been received;
- Indicating how Merseytravel proposes to deal with the matter;
- Estimating of how long it will take to provide a final response;
- Telling you whether any initial enquiries have been made;
- Supplying you with information on staff support mechanisms and;
- Telling you if no further investigations will take place and the reason/s for this.

Officers investigating your concerns may need to contact you to obtain further information or clarify points raised. Where any meeting is arranged, you can be accompanied by a union or professional association representative or a workplace colleague.

Merseytravel 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 Merseytravel will arrange for you to receive advice about the procedure, if you require it.

In the event that a colleague makes a protected disclosure and suffers any detriment, Merseytravel can be vicariously liable for the actions of the perpetrator, unless they can demonstrate they took all reasonable steps to prevent this happening. Workers can also be personally liable if they subject a colleague to a detriment in such regard.



Merseytravel 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.

## **How the Matter can be taken further**

The Confidential Reporting (Whistleblowing) Policy documents how concerns can be raised internally and how Merseytravel will deal with these. If you are not satisfied with Merseytravel's response you may wish to contact the following:

- The External Auditor
- Your Trade Union
- Your local Citizens Advice Bureau or Solicitor
- Relevant professional bodies or regulatory organisations
- The Police
- Your Member of Parliament

If you do take the matter outside Merseytravel, you should ensure that you do not disclose confidential information acquired during your employment unless it falls within the qualifying criteria for protected disclosures. Premature or inaccurate media exposure or adverse publicity may cause needless reputational damage, impede a proper investigation or cause unnecessary distress to individuals.



## APPENDIX A

### Public Interest Disclosure Act (PIDA) 1998

PIDA builds on existing employment protection legislation in the Employment Rights Act 1996. It makes it unlawful to subject a worker to any detriment for making what is known as a “*Protected Disclosure*”. Further provisions on whistleblowing are also included in the Enterprise & Regulatory Reform Act 2013.

The “Protected Disclosure” provisions have two aims:

1. To ensure concerns about malpractice is brought to the attention of the appropriate person who can deal with the issue quickly and effectively - and who can be held accountable if the concerns are not dealt with properly;
2. To encourage whistle-blowers to behave responsibly (for example to avoid leaking a story to the media).

There are three legal definitions of what constitutes a ‘protected disclosure’:

#### 1. Nature of the Disclosure

To be a protected disclosure, the disclosure must be about the commission of a criminal offence, a breach of any legal obligation, a miscarriage of justice, a risk to health and safety or damage to the environment.

#### 2. Disclosure to Whom?

A protected disclosure may be made:

- (a) To the worker’s employer;
- (b) To the person having legal responsibility for the matter that is subject to the disclosure;
- (c) In accordance with the employer’s whistle-blowing procedure;
- (d) To the worker’s legal advisor.

#### 3. Worker’s State of Mind

The person making the disclosure must reasonably believe that the information disclosed tends to show one of the matters outlined above so the disclosure can constitute the subject matter of a protected disclosure.

The Act places responsibilities on the actions of whistle-blowers. To be protected by the Act, the disclosure must not be made for personal gain and must be made in the reasonable belief that the allegation is substantially true and is made in the public interest. Furthermore, the disclosure will only be protected if a number of additional pre-conditions are satisfied. These include raising the matter internally or with a prescribed person, or if this has not been done it is because the person must reasonably believe that they will be subject to detriment by their employee.



APPENDIX B

Merseytravel

Confidential Reporting (Whistleblowing) Policy

Contact List – March 2018

**Financial Probity and Malpractice Issues:  
Internal Audit (7<sup>th</sup> Floor, Mann Island)**

Director of Resources	330 1959
Head of Internal Audit	330 1031
Audit Manager	330 1122
Principal Auditor (Technical)	330 1116
Senior Auditor	330 1284

**Human Resource/Staffing Issues:  
People & Customer Development (9<sup>th</sup> Floor, Mann Island)**

Head of People & Customer Development	330 1800
HRD Operations Manager	330 1213
HRD Strategy & Systems Manager	330 1204
Health & Safety Officer	330 1210

**Legal Issues and Advice:  
Legal, Democratic Services and Procurement (7<sup>th</sup> Floor, Mann Island)**

Head of Legal, Democratic Services and Procurement	330 1700
Legal, Democratic Services and Procurement Manager	330 1703

**Independent Advice:**

**Public Concern at Work (PCAW)** is a Whistleblowing Charity that provides independent support & advice:

Website: <http://www.pcaw.org.uk/>

PCAW Whistleblowing Advice Line: 020 7404 6609