

## SECTION F WHISTLEBLOWING POLICY

### 81 Whistleblowing Policy Statement

81.1 Transport for the North is committed to the highest possible standards of openness, probity and accountability and will not tolerate wrongdoing in its business.

81.2 Transport for the North is therefore committed to encouraging employees and other workers who have legitimate concerns about any of the organisation's activities to voice those concerns.  
Transport for the North will protect individuals who make a protected qualifying disclosure with regard to instances of wrongdoing from any form of detriment in their employment and will investigate all concerns raised in the public interest.

### 81.3 Aims of This Policy

81.4 The aims of this Policy are to:

- a) Provide a means for you to raise a concern about suspected wrong-doing;
- b) Set out the safeguards that you can expect when raising concerns under this;
- c) Reassure you that reprisals or victimisation for whistleblowing in the public interest will not be tolerated ;
- d) Demonstrate Transport for the North's zero tolerance commitment to tackling fraud and corruption; and
- e) Demonstrate the organisation's commitment to treat all disclosures consistently and fairly.

This Policy It is available for use by all officers, agency and contract workers of Transport for the North.

### 82 What is Whistleblowing?

82.1 Whistleblowing is the term used when a worker passes on information about wrong doing in the work place. The Employment Rights Act 1996 as amended by the Public Interest Disclosure Act 1998 provides legal protection from detriment in their employment for employees who whistleblow. To be protected by current law the disclosure must be a "**qualifying disclosure**" and must comply with statutory conditions.

### 82.2 Definition of Qualifying disclosures

82.3 A qualifying disclosure is raising a concern that:

A criminal offence has been committed, is being committed or is likely to be committed;

A person has failed, is failing or is likely to fail to comply with a legal obligation to which that person is subject;

A miscarriage of justice has occurred, is occurring or is likely to occur;

The health and safety of any individual has been, is being or is likely to be endangered;

The environment has been, is being or is likely to be damaged;

Information tending to show any of the above is being or is likely to be concealed.

#### **82.4 Conditions for Legal Protection**

82.5 In order to be protected:

- a disclosure must be in the public interest;
- the worker must have a reasonable belief that the information shows that one of the categories of wrongdoing listed in the legislation has occurred; and
- the concern must be raised in the correct way.

#### **82.6 Restrictions on the use of the Policy**

82.7 This Whistleblowing Policy is intended to cover concerns that fall outside the scope of other procedures and which involve an issue in the public interest. It is not to be used where other more appropriate procedures are available. In particular concerns in relation to how you are being treated at work (e.g. bullying, harassment or discrimination) should be raised under the Dignity at Work Procedure and not under the Whistleblowing Policy.

82.8 Concerns about the actions of elected Members and Co-opted Members of Transport for the North's Boards and Committees should be raised under the Code of Conduct for Members and referred to the Monitoring Officer.

#### **83 Whistleblowing Procedure**

83.1 Employees are often the first to realise that there may be something seriously wrong within an organisation. Normally you would be expected to raise any concerns initially with your line manager.

83.2 This Whistleblowing policy encourages and enables employees and others with serious concerns about any aspect of Transport for the North's business to come forward and voice those concerns.

83.3 The Act directs you towards raising your concerns internally in the first place and, where there is a Whistleblowing Procedure in place, to use it. However, the Act will protect workers where they make external disclosures in a range of circumstances such as when obtaining legal advice or when making disclosures to prescribed persons such as regulators (see list of prescribed persons set out in paragraph 90.0 below under the heading **List of Prescribed Persons for External Whistleblowing.**)

#### **84 Statutory Protection**

84.1 The law protects employees who raise concerns in the public interest from being discriminated against or victimized in their workplace. However, if you choose to disclose information in a way which is not covered by the Act, then you will lose its protection.

#### **85 Raising a Concern**

85.1 You should raise any concerns promptly and report your concerns to your line manager in the first instance. However, you may raise a concern outside the normal

management reporting line if your concern is about the actions of your line manager or you do not believe the line manager will take your concerns seriously. You may raise your concerns with a senior manager or with one of the Transport for the North post holders listed below in paragraph 85.3 under the heading **List of Post Holders for Internal Whistleblowing** .

85.2 When reporting your concern it is recommended that if possible you use the **Reporting Form** attached at **Appendix B**.

### **85.3 List of Post Holders for Internal Whistleblowing**

- a) **Your Line Manager;**
- b) **Your Director;**
- c) **Finance Director - Iain Craven;**
- d) **Chief Executive - Barry White;**
- e) **Head of Legal/ Monitoring Officer – Julie Openshaw;**
- f) **Head of HR – Stephen Hipwell.**

85.4 This Whistleblowing Policy encourages and enables staff and others with serious concerns about any aspect of Transport for the North's work or those with whom it is engaged, to come forward and voice their concerns.

### **85.5 Do not:**

- a) Do nothing;
- b) Be afraid of raising your concerns;
- c) Approach or accuse any individuals directly;
- d) Try to investigate the matter yourself; or
- e) Convey your suspicions to anyone other than those listed in the List of Post Holders for Internal Whistleblowing or the List of Prescribed Persons for External Whistleblowing.

**(See Appendix A for more detailed advice).**

## **86 Dealing with a Concern**

86.1 Transport for the North is committed to treating all concerns consistently and fairly. Where a concern is referred to a Line Manager, the Line Manager should consider the facts reported, together with any supporting documentation, and unless he or she has information which shows that the concerns are not valid should refer the matter immediately to the Finance Director for further enquiry.

86.2 If the concern is about either the Finance Director or the Chief Executive, the Monitoring Officer shall be informed and he/she will advise on how the investigation will proceed. Normally an external investigator will be appointed to investigate such allegations.

86.3 All concerns raised under this Whistleblowing Policy must be recorded in the central register and where they are not investigated further, the reasons why a concern has not been investigated should be recorded.

## **87 Procedure for Dealing with a Concern**

- 87.1 The Finance Director will receive reports from employees or managers and will normally appoint a Designated Officer (DO) to conduct enquiries to establish the facts and the substance of any allegations/suspicions.
- 87.2 The DO will interview you to ascertain the basic facts and will:
- a) Ask you if you wish your identity to be kept confidential;
  - b) Give assurances against possible reprisals and victimisation;
  - c) Ask you for a written or verbal statement; and
  - d) Write a brief summary of the interview, which you will be asked to agree.
- 87.3 Where any meetings are arranged during the course of the investigation of your concerns you may, if you wish, be accompanied by a trade union representative or a work colleague.
- 87.4 The DO will report back to the Finance Director normally within 10 working days . If initial enquiries establish that there is a prima facie case for investigation the Finance Officer will request the DO to proceed with a further investigation. Exceptionally a concern may be referred to Transport for the North's Internal Auditors for investigation.
- 87.5 The DO will inform you of the course of action which has been agreed by the Finance Director i.e. whether to carry out an investigation or to take the matter no further in which case they will provide you with the reasons for that decision.
- 87.6 In some cases it may be necessary to conduct the investigation under terms of strict confidentiality, i.e. by not informing the subject of the referral until it becomes necessary to do so. This course of action is normally appropriate in cases of suspected fraud or corruption or other serious criminal offences. In certain circumstances, it may be necessary to suspend the individual(s) from work pending completion of the investigation.
- 87.8 You may be contacted again during the course of the investigation and may be asked to provide further information
- 87.9 The DO shall report back to the Finance Director on the investigation normally within 10 working days. The Finance Director shall decide the outcome of the investigation and any further necessary action and shall inform the Chief Executive.
- 87.10 A central record of all whistleblowing referrals will be kept and a regular review of all whistleblowing referrals will be undertaken to ensure that all concerns are being dealt with on a consistent basis.

## **88 Following the Investigation**

- 88.1 If the investigation shows that there is a case to be answered by any employee, the matter will be considered under Transport for the North's Disciplinary Procedure. In cases where there is evidence of a criminal offence, the Police will be informed.
- 88.2 Transport for the North acknowledges the need to provide you with assurance that your concern has been properly addressed and, subject to any legal constraints, no

later than one month following the completion of the investigation, you will be advised of the outcome of the investigation (this will not include details of any disciplinary action, which will remain confidential to the individual concerned).

88.3 If you are not satisfied with the outcome of the investigation, Transport for the North recognises the lawful rights of its employees and ex-employees to make disclosures to the prescribed persons listed in paragraph 90.9 in the **List of Prescribed Persons for External Whistleblowing**. If this course of action is taken, you should inform the DO who will inform the Finance Director.

88.4 The Finance Director has overall responsibility for this policy and will undertake an annual review of referrals under the policy and will prepare an annual report on the working of the policy to the Audit and Governance Committee. Where appropriate, outcomes of matters arising from Whistleblowing cases will be publicised throughout Transport for the North as part of the ongoing promotion of the Anti-Fraud and Corruption Policy, although the confidentiality of any whistleblowers and of any disciplinary processes will be maintained.

## **89 Safeguards**

### **89.1 Confidentiality**

89.2 Where requested to do so, Transport for the North will make every effort to maintain the confidentiality of the source of all whistleblowing referrals and will endeavor not to disclose your identity unless required by law to do so.

### **89.3 Protection from Reprisal**

89.4 Transport for the North recognizes that the decision to report a concern can be a difficult one to make, not least because of fear of reprisal from those accused of wrongdoing. The organisation will not tolerate harassment or victimisation and will take action to protect you if you raise a concern which you reasonably believe to be true. This action may include disciplinary action against those that subject you to detriment as a result of a whistleblowing referral.

89.5 If at any time either during or after the investigation, you feel that you have suffered victimisation or any detriment as a result of your whistleblowing referral including breach of your confidentiality as a whistle blower, you should contact the D O who will refer the matter to the Head of HR. Where action is required this will be led by the Head of HR under the Disciplinary Policy.

89.6 If, when you raise a concern, you are already the subject of a procedure such as disciplinary, improving performance, grievance or improving attendance these will not be halted as a result of your whistleblowing referral.

### **89.7 Anonymous Allegations**

89.8 Allegations can be made anonymously. However, anonymous reports can be more difficult or even impossible to investigate if further information cannot be obtained from the whistleblower particularly where evidence is missing or scant. This policy encourages you to provide your name and contact details together with as much detail as you are able to supply when making your allegation.

### **89.9 Untrue Allegations**

89.10 If you make an allegation which is malicious and/or false and/or one which you could not reasonably have believed to be true, then this may be considered an abuse of the Whistleblowing Policy and disciplinary action may be taken against you.

### **89.11 Independent Advice**

89.12 If you are unsure whether to raise your concerns under this policy, or if you wish to obtain independent advice at any time you may contact:

Your Trade Union Representative

Your Solicitor; or

The independent charity Protect (formerly Public Concern at Work)

Protect Advice Line – [whistle@protect-advice.org.uk](mailto:whistle@protect-advice.org.uk) Telephone no 020 3117 2520 (option 1)

## **90 External Contacts**

90.1 The aim of this policy is to provide an internal mechanism for reporting wrongdoing in the workplace. In most cases you should not find it necessary to alert anyone externally.

90.2 The law recognises that in certain circumstances it may be necessary to report your concern to certain prescribed people and bodies. It is strongly recommended that you seek advice before you report your concerns to any one external to Transport for the North. If you tell a prescribed person or body it must be one which you reasonably believe deals with the issue you are raising. A list of the prescribed people or bodies is set out in paragraph 90.9 in the **List of Prescribed Persons for External Whistleblowing**.

### **90.3 Raising a Concern Externally**

90.4 In order to retain legal protection if you raise your concern externally the concern must be a qualifying disclosure which meets the criteria for protection set out above in paragraph 82.3 under the heading **Definition of Qualifying Disclosures**.

90.5 You will only have legal protection if you raise your concern with a third party other than a prescribed body if you make the disclosure:

- in the reasonable belief that it is in the public interest and that the information and allegations are substantially true, and
- do not make the disclosure for personal gain, and
- have already raised the matter with TfN or a prescribed regulator, unless you reasonably believe that you will suffer a detriment, or there is no prescribed regulator and you reasonably believe that evidence will be concealed or destroyed if you make the initial disclosure to Transport for the North, and
- in all of the circumstances it is reasonable to make the disclosure.

### **90.6 Concerns of an exceptionally Serious Nature**

90.7 You may raise your concern externally with legal protection without having first raised it internally if your concern is of an **exceptionally serious nature** and you make the disclosure:

- in the reasonable belief that it is in the public interest and, that the information and allegations are substantially true, and
- do not make the disclosure for personal gain, and
- in all of the circumstances it is reasonable to make the disclosure.

90.8 When considering whether it was reasonable for you to make the disclosure, regard will be had particularly to the identity of the person to whom the disclosure was made.

### **90.9 List of Prescribed Persons for External Whistleblowing**

- 90.10
- **Your own Solicitor;** (to enable you to receive legal advice);
  - **Your MP;**
  - **A Prescribed Person or Body.**

A full list of all prescribed persons and bodies is on the Government Website. ([www.gov.uk](http://www.gov.uk))

90.11 If you refer your concern to a prescribed person or body you must make sure that you have chosen the correct person or body for your concern.

90.12 The following are a few of the most relevant to Transport for the North's business:

- The Comptroller and Auditor General (about proper conduct of public business, value for money, fraud and corruption)
- The Information Commissioner (about compliance with Data Protection and Freedom of Information legislation)
- The Environment Agency (about an actual or potential effect on the environment)
- Equality and Human Rights Commission (about breaches or Equalities and Human Rights legislation)
- The Health and Safety Executive (about the health and safety of individuals at work or of the public)
- The Office of Rail and Road (about the provision of railway services)
- Your Local Authority (about health and safety at work)
- The Director of the Serious Fraud Office (in relation to the offering or taking of bribes)
- National Crime Agency (in relation to the offering or taking of bribes)
- The Secretary of State for Transport (about road or rail transport security).

## Appendix A

### How to Raise a Concern (Dos and Don'ts)

**DO NOT** Ignore the concern – it is important that you feel comfortable raising legitimate concerns in the public interest as this provides Transport for the North the opportunity to address the associated issues as soon as possible

**DO Report** your suspicions in line with this policy to your line management, the relevant programme management, Senior Management or the Finance Director. The decision on who to report your suspicions to will depend on the seriousness and sensitivity of the issues concerned and who is thought to be concerned in the wrongdoing. For example, if departmental management are involved then Transport for the North's Monitoring Officer can give advice and guidance on how the matter can be pursued.

**Do make** an immediate note of your concerns and deal with the matter promptly

The earlier you express your concern the easier it is to take action. Over time these details can be forgotten or remembered incorrectly which can make a concern more difficult to investigate and so it would help us if you make a note of your concerns at the time and let us know about them as soon as possible.

You will need to demonstrate that there are sufficient grounds for your concern. It would be useful to provide relevant information including where possible, but not limited to:

- The background and history to the case;
- The reason why you are particularly concerned;
- Any specific details available including names, dates, times and places;
- Details of any particular conversations that support the concerns;
- Details of any personal interest you may have in the matter; and
- How you think matters may be put right, if possible.

**DO NOT** be afraid of raising your concerns and if a manager **DO** be responsive to staff concerns

We want to encourage people to voice any reasonably held suspicions to help us to develop a culture of openness, honesty and accountability. All concerns should be treated sensitively and seriously and be subject to the necessary investigation and follow up communication where possible. If you are a manager receiving a concern you also need to make sure you send details of all referrals to the Finance Director for monitoring and action.

**DO NOT** approach or accuse any individuals directly or tell anyone about your suspicions except those with the proper authority'

If a concern is discussed with someone directly involved, then it creates an opportunity for evidence to be tampered with or removed.

Concerns should not be discussed with others who are not involved in a properly structured investigation. Doing so may leave you open to allegations of making defamatory comments should your concerns be unfounded as these could damage the reputation of individuals and Transport for the North even if there is no evidence of any wrongdoing.

**DO NOT** try to investigate the matter yourself.

There are special rules surrounding the gathering of evidence. Any attempt to gather evidence by people who are unfamiliar with these rules may adversely affect the outcome of the investigation as evidence has to be gathered in accordance with statutory requirements. This is of particular importance with regard to surveillance. If you are at all unsure about the gathering of evidence you should contact the Transport for the North legal team for advice.

All referrals will be treated in the strictest confidence.

**APPENDIX B**

**RAISING A CONCERN AT WORK**

**REPORTING FORM**

<b>Name</b>		
<b>Contact Details</b>	<b>e-mail</b>	
	<b>Phone number</b>	
<b>Please Note – you do not need to give your name or contact details but if you do not do so it may not be possible to investigate your concerns without further information</b>		
<b>Short Description of your concern</b>		
<b>Names of any individuals involved</b>		
<b>Dates of any events</b>		
<b>Place of any events</b>		
<b>Details of any Documentary Evidence</b>		
<b>Names of any other witnesses</b>		
<b>Date of Complaint</b>		