

## whistleblowing

<b>Responsible Officer:</b>	Director of Legal and Governance Services
<b>Reviewed:</b>	February 2015
<b>Review Date:</b>	February 2019
<b>Ratification Date:</b> <b>Version:</b>	May 2007 4
<b>Regulatory Standard:</b>	Governance and Financial Viability
<b>Scope:</b>	Group Wide

# Whistleblowing Policy

## 1.0 Introduction

- 1.1 Incommunities is committed to the highest standards of openness, probity and accountability. An important aspect of accountability and transparency is a mechanism to enable staff and others to voice concerns in a responsible and effective manner.
- 1.2 It is a fundamental term of every contract of employment that an employee will not disclose confidential information about the employers' affairs. Nevertheless, where an individual discovers information which they believe shows serious malpractice or wrongdoing within the organisation then this information should be disclosed internally without fear of reprisal, and there should be arrangements to enable this to be done independently of line management.
- 1.3 The Public Interest Disclosure Act, which came into effect in 1999, gives legal protection to employees against being dismissed or penalised by their employers as a result of publicly disclosing certain serious concerns. The Company has endorsed the provisions set out below so as to ensure that no members of staff should feel at a disadvantage in raising legitimate concerns.

## 2.0 Statement of Intent

- 2.1 Incommunities Board Members and Senior Managers are committed to employees being able to raise concerns about malpractice. They recognise that this can take courage and will provide the support necessary to ensure that Whistleblowing arrangements are effective and will not tolerate the victimisation of anyone who blows the whistle in good faith, in line with the law or this policy.
- 2.2 It is also recognised that an effective whistleblowing policy is an important element of the internal controls required under the Governance & Financial Viability Standard (April 2015).

## 3.0 Policy

- 3.1 Incommunities will enable employees to raise concerns and to disclose information which the individual believes shows malpractice or impropriety. This is known as a "qualifying disclosure". In order for the disclosure to be "qualifying" there must be: A disclosure of information which in the reasonable belief of the person making the disclosure tends to show that one of the following has or is likely to happen:
  - Financial malpractice or impropriety or fraud
  - Miscarriage of justice
  - A breach of, or failure to comply with a legal obligation or Statutes
  - Dangers to Health & Safety or the environment
  - Criminal activity
  - Improper conduct or unethical behaviour
  - Attempts to conceal any of these

- 3.2 The policy cannot be used to question financial or business decisions taken by Incommunities nor should it be used to reconsider any matters which have already been addressed under harassment, complaint, disciplinary or other procedures.
- 3.3 Incommunities will offer support and protection to those employees who disclose such concerns providing they make the disclosure in good faith and in the reasonable belief that it tends to show malpractice or impropriety and if they make the disclosure to an appropriate person (see below).

N.B No protection is offered to those who choose not to use the procedure. In an extreme case malicious or wild allegations could give rise to legal action on the part of the person(s) complained about.

- 3.4 Incommunities will treat all such disclosures in a confidential and sensitive manner. The identity of the individual making the allegation may be kept confidential so long as it does not hinder or frustrate any investigation. However, the investigation process may reveal the source of the information and the individual making the disclosure may need to provide a statement as part of the evidence required.
- 3.5 This policy encourages individuals to put their name to any disclosures they make. However, concerns expressed anonymously may be considered at the discretion of Incommunities. In exercising this discretion, the factors to be taken into account will include:
- The seriousness of the issues raised
  - The credibility of the concern
  - The likelihood of confirming the allegation from attributable sources
- 3.6 In making a disclosure the individual should exercise due care to ensure the accuracy of the information. No action will be taken against an individual making an allegation in the public interest, which is not confirmed by subsequent investigation. However, an individual making malicious or vexatious allegations, particularly in a persistent manner may be subject to disciplinary action.
- 3.7 If the investigation finds the allegations unsubstantiated and all internal procedures have been exhausted, but the complainant is not satisfied with the outcome, Incommunities recognises the lawful rights of employees and ex-employees to make disclosures to prescribed persons (such as the Health and Safety Executive or relevant regulator).
- 3.8 Incommunities will at all times act in accordance with the protection provided by the Public Interest Disclosure Act 1998, and the Enterprise and Regulatory Reform Act 2013, which afford protection for employees against detriment or dismissal, disciplinary action or unfavourable treatment for raising concerns about matters in the public interest, provided that;
- The employee has acted in the public interest and not for personal gain or out of personal motives.
- 3.9 The Whistleblowing Policy does not replace any of Incommunities existing policies, it is intended to sit alongside existing policies. It may be that once the whistle has

been blown, investigation shows that action under other processes would be more suitable. Other policies and procedures that might be used include:

- Safeguarding Vulnerable Adults and Children Policy;
- Health and Safety Policy;
- Disciplinary Policy;
- Code of Conduct (Board Members, Employees and Involved Residents)
- ICT Code of Conduct
- Fraud and Corruption Prevention Policy
- Information Governance Policy
- Data Protection Policy

#### **4.0 Who to make a report to**

- 4.1 Generally, a whistleblower should make the report to their line manager of, if the report is about the line manager, the report should be made to their manager's manager.
- 4.2 If the whistleblower feels uncomfortable making the report through their line management chain, they can make the report to the Director of Legal & Governance via email entitled 'Whistleblowing'.
- 4.3 Although it is preferred that reports are made internally, reports may be made to the organisations in Appendix 1.

#### **5.0 Review**

- 5.1 This policy will be reviewed bi-annually.

## Appendix 1: External Reporting Organisations

### Tax, benefits and statutory payments

Relevant matters	Prescribed person
<p>Matters relating to:</p> <ul style="list-style-type: none"> <li>Income tax, corporation tax, capital gains tax, petroleum revenue tax, inheritance tax, stamp duties, national insurance contributions</li> <li>VAT, insurance premium tax, excise duties and landfill tax</li> <li>Statutory maternity pay and statutory sick pay</li> <li>Tax credits and child benefits</li> <li>Collection of student loans</li> <li>Enforcement of the national minimum wage</li> </ul>	<p>Commissioners of <i>HM Revenue &amp; Customs</i>  <a href="https://www.gov.uk/government/organisations/hm-revenue-customs">https://www.gov.uk/government/organisations/hm-revenue-customs</a></p>

### Health & safety and environmental risks

Relevant matters	Prescribed person
Actual or potential risks to the environment or the management or regulation of the environment, including those relating to abstraction of water, flooding, the flow in rivers, inland fisheries and migratory salmon or trout	<p><i>Environment Agency</i>  <a href="https://www.gov.uk/government/organisations/environment-agency">https://www.gov.uk/government/organisations/environment-agency</a></p>
Actual or potential risks to the environment or the management or regulation of the environment, including those relating to flood warning systems and pollution	<p>In England: <i>Environment Agency</i>            In Scotland: <i>Scottish Environment Protection Agency</i>  <a href="http://www.sepa.org.uk/">http://www.sepa.org.uk/</a></p>
<p>Matters that may affect the health or safety of:</p> <ul style="list-style-type: none"> <li>Any individual at work</li> <li>Any member of the public arising from the activities of persons at work</li> </ul>	<p><i>Health and Safety Executive</i> and local authorities that are responsible for the enforcement of the relevant legislation  <a href="http://www.hse.gov.uk/">http://www.hse.gov.uk/</a></p>
Matters that may affect public health in relation to the consumption of food and other matters concerning the protection of consumer interests in relation to food	<p><i>Food Standards Agency</i>  <a href="https://www.food.gov.uk/">https://www.food.gov.uk/</a></p>
Consumer product and services safety	<p>Secretary of State for <i>Business, Energy, Industrial Strategy</i>  <a href="https://www.gov.uk/government/organisations/department-for-business-energy-and-industrial-strategy">https://www.gov.uk/government/organisations/department-for-business-energy-and-industrial-strategy</a></p>
Compliance with food safety legislation	Local authorities that are responsible for the enforcement of food standards

## Consumer rights

Relevant matters	Prescribed person
Matters concerning the sale of goods or the supply of services, which adversely affect the interests of consumers	<i>Consumer Rights: Citizens Advice</i> <a href="https://www.gov.uk/consumer-protection-rights">https://www.gov.uk/consumer-protection-rights</a> There is a list of organisations who have replaced the Office of Fair Trading <a href="https://www.gov.uk/government/organisations/office-of-fair-trading">https://www.gov.uk/government/organisations/office-of-fair-trading</a>
Compliance with the requirements of consumer protection legislation	Local authorities that are responsible for the enforcement of consumer protection legislation

## Financial issues, investments and fraud

Relevant matters	Prescribed person
Serious or complex fraud	In England and Wales: <i>Director of the Serious Fraud Office</i> <a href="https://www.sfo.gov.uk/">https://www.sfo.gov.uk/</a>
Fraud, and other misconduct, in relation to companies, investment business, insurance business, or multi-level marketing schemes (and similar trading schemes)	Secretary of State for <i>Business, Energy, Industrial Strategy</i> <a href="https://www.gov.uk/government/organisations/department-for-business-energy-and-industrial-strategy">https://www.gov.uk/government/organisations/department-for-business-energy-and-industrial-strategy</a>
Matters relating to: <ul style="list-style-type: none"> <li>the independent oversight of the regulation of the accountancy, auditing and actuarial professions</li> <li>the independent supervision of Auditors General (as defined in section 1226 of the Companies Act 2006)</li> <li>the monitoring of major audits (as defined in section 525 of that Act for the purposes of that section or section 522, or paragraph 13(10) of Schedule 10 to that Act for the purposes of that paragraph)</li> <li>the registration of third country auditors (as defined in section 1261 of that Act)</li> <li>compliance with the requirements of legislation relating to accounting and reporting</li> <li>the investigation of the conduct of auditors, accountants and actuaries and the holding of disciplinary hearings in public interest cases (as defined in paragraph 24 of Schedule 10 to that Act).</li> </ul>	The Financial Reporting Council Limited and its operating bodies the Professional Oversight Board, the Financial Reporting Review Panel and the Accountancy and Actuarial Discipline Board
Fraud (and other irregularities) relating to the financial affairs of trade unions and employers' associations	<i>Certification Officer</i> <a href="http://www.certoffice.org/pages/index.cfm?pageID=home">http://www.certoffice.org/pages/index.cfm?pageID=home</a>

## Data protection and freedom of information

Relevant matters	Prescribed person
Compliance with the requirements of legislation relating to data protection	<i>Information Commissioner</i> <a href="http://www.informationcommissioner.gov.uk/">http://www.informationcommissioner.gov.uk/</a>
Compliance with the requirements of legislation relating to freedom of information	In England and Wales: <i>Information Commissioner</i>

## Utilities

Relevant matters	Prescribed person
The generation, transmission, distribution and supply of electricity, participation in the operation of an electricity interconnector and ancillary activities	<i>Gas and Electricity Markets Authority</i> <a href="https://www.ofgem.gov.uk/">https://www.ofgem.gov.uk/</a>
The transportation, shipping and supply of gas through pipes, participation in the operation of a gas interconnector and ancillary activities	<i>Gas and Electricity Markets Authority</i>
Matters relating to: <ul style="list-style-type: none"> <li>• The provision of electronic communications networks and services and the use of electronic magnetic spectrum</li> <li>• Broadcasting and the provision of television and radio services</li> <li>• Media ownership and control</li> <li>• Competition in communications markets</li> </ul>	<i>Office of Communications</i> <a href="https://www.ofcom.org.uk/">https://www.ofcom.org.uk/</a>
The supply of water and the provision of sewerage services	In England and Wales: the <i>Water Services Regulation Authority</i> <a href="http://www.ofwat.gov.uk/">http://www.ofwat.gov.uk/</a>

## Public bodies and business

Relevant matters	Prescribed person
The proper conduct of centrally-funded public services	Comptroller General of the <i>National Audit Office</i> <a href="https://www.nao.org.uk/">https://www.nao.org.uk/</a>
The proper conduct of public business and health service bodies	Public Sector Audit Appointments Ltd
The proper conduct of public business in Scotland	<i>Accounts Commission for Scotland</i> (and auditors appointed by the Commission) <a href="http://www.audit-scotland.gov.uk/about-us/accounts-commission/">http://www.audit-scotland.gov.uk/about-us/accounts-commission/</a>

The conduct of those serving with the police or of any other person in relation to whose conduct the Independent Police Complaints Commission exercises functions in or under any legislation	<i>Independent Police Complaints Commission</i> <a href="http://www.ipcc.gov.uk/">http://www.ipcc.gov.uk/</a>
Breaches by a member (or co-opted member) of a relevant authority of that authority's code of conduct	In England: The local authority

## Healthcare and social services

Relevant matters	Prescribed person
<ul style="list-style-type: none"> <li>The provision of health care for the purposes of the National Health Service</li> <li>The provision of independent health services within the meaning of section 5A(8) of the Care Standards Act 2000</li> <li>Any activities not covered above in relation to which the Commission for Healthcare Audit and Inspection exercises its functions</li> </ul>	<i>Care Quality Commission</i> <a href="http://www.cqc.org.uk/">http://www.cqc.org.uk/</a>
Matters relating to the provision of regulated social care services as defined in the Care Standards Act 2000, and the inspection and performance assessment of English local authority social services as defined in section 148 of the Health and Social Care (Community Health and Standards) Act 2003	<i>Care Quality Commission</i> <a href="http://www.cqc.org.uk/">http://www.cqc.org.uk/</a>
Matters relating to: <ul style="list-style-type: none"> <li>the regulation and performance of NHS foundation trusts; and</li> <li>any other activities in relation to which the Independent Regulator of NHS Foundation Trusts exercises its functions under the National Health Service Act 2006.</li> </ul>	<i>Independent Regulator of NHS Foundation Trusts</i> <a href="https://www.gov.uk/government/organisations/monitor">https://www.gov.uk/government/organisations/monitor</a>
Matters relating to the registration of social care workers in England and Wales	In England: <i>Health and Care Professions Council</i> <a href="http://www.hpc-uk.org/">http://www.hpc-uk.org/</a>
Matters relating to the views and interests of children	<i>Children's Commissioner</i> <a href="http://www.childrenscommissioner.gov.uk/">http://www.childrenscommissioner.gov.uk/</a>
Matters relating to registered social landlords, including their administration of public and private funds and management of their housing stock	In England: <i>Homes and Communities Agency</i> <a href="https://www.gov.uk/government/organisations/homes-and-communities-agency">https://www.gov.uk/government/organisations/homes-and-communities-agency</a>

## Miscellaneous

Relevant matters	Prescribed person
Actual or potential miscarriages of justice.	In England and Wales: Chief Executive of the <i>Criminal Cases Review Commission</i> <a href="http://www.ccrc.gov.uk/">http://www.ccrc.gov.uk/</a>
The import and export of prohibited or restricted goods.	Commissioners of <i>HM Revenue &amp; Customs</i> . <a href="http://www.hmrc.gov.uk/home.htm">http://www.hmrc.gov.uk/home.htm</a>
Matters relating to occupational pension schemes and other private pension arrangements. This includes "matters relating to the Regulator's objective of maximising compliance with the duties under Chapter 1 of Part 1 (and the safeguards in sections 50 and 54) of the Pensions Act 2008" (auto-enrolment).	<i>Pensions Regulator</i> <a href="http://www.thepensionsregulator.gov.uk/">http://www.thepensionsregulator.gov.uk/</a>
Competition affecting markets in the United Kingdom.	<i>Advertising Standards Agency</i> <a href="https://www.asa.org.uk/">https://www.asa.org.uk/</a>  There is a list of organisations who have replaced the Office of Fair Trading <a href="https://www.gov.uk/government/organisations/office-of-fair-trading">https://www.gov.uk/government/organisations/office-of-fair-trading</a>
The proper administration of charities and of funds given or held for charitable purposes.	In England and Wales: <i>the Charity Commissioners</i> <a href="https://www.gov.uk/government/organisations/charity-commission">https://www.gov.uk/government/organisations/charity-commission</a>
Any of the relevant matters listed in these tables.	A member of the House of Commons (MP). <i>(Note: this appears to be limited to MPs at Westminster. Members of the European Parliament (MEPs are not included)</i>
Matters falling within the description of matters in respect of which person B is prescribed by this Order, to the extent that those matters relate to functions currently carried out by person A.	A person ("person A") carrying out functions, by virtue of legislation, relating to relevant failures falling within one or more matters within a description of matters in respect of which another person ("person B") is prescribed by this Order, where person B was previously responsible for carrying out the same or substantially similar functions and has ceased to be so responsible.

