



SERIOUS CONCERNS

("Whistleblowing")

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This policy supersedes all previous policies, circulars and agreements connected with Serious Concerns within the States of Jersey.	

Contents		Page
1	Policy Statement	3
2	Policy Aims	3
3	Key Principles	3
4	Links to other policies	3
5	Who this Policy applies to	3
6	Roles and responsibilities	4
7	Policy Provisions	4
8	Disclosure to outside agencies	7
9	Investigations	7
10	Exceptions	8
APPENDIX A	Designated Person	9
APPENDIX B	Reporting Form	10
APPENDIX C	Reporting Arrangements Flowchart	11

1 Policy Statement

- 1.1 These reporting arrangements aim to ensure that serious concerns raised by individuals under the Ministerial Code of Conduct, Code of Conduct for Elected Members, Anti-fraud and Corruption Policy and Reporting of Serious Concerns Policy are treated responsibly, openly and consistently, and that anyone raising a concern is protected from victimisation or reprisal. There is provision to raise concerns to one of the designated persons to ensure that they are resolved appropriately. The Designated Persons carry responsibility for monitoring the progress of all concerns raised under the above Codes and Policies.

2 Policy Aims

- 2.1 The purpose and aims of this policy are to:

- Provide clear guidance to employees about serious concerns, other related options that are available and how the serious concerns process will operate.
- To ensure equality, consistency and fair process is applied to all employees who may be affected by serious concerns.

3 Key Principles

- 3.1 A standard set of underpinning principles has been developed for this policy and will apply to all States of Jersey Human Resource Policies and terms of conditions of services. (See Policy Principles)

In addition the following also applies:

- The States of Jersey is committed to the highest possible standards of openness, probity and accountability.

4 Links to other policies

- 4.1 Other policies and documents which may be helpful when considering this policy are:
- Equalities & Diversity
 - Individual Grievance (including Bullying and Harassment)
 - Ministerial Code of Conduct
 - Code of Conduct for Elected Members
 - Anti-Fraud and Corruption
 - Investigation Guidelines

5 Who this policy applies to

- 5.1 This policy applies to:

- All employees¹ of the States of Jersey on permanent contracts of employment
- Employees on fixed term contracts
- Workers (who are engaged on a zero hours agreement) who have no implied contract of employment

¹ Throughout this policy the term 'employee' is used to include all employees and all office holders of the States of Jersey.
20151026 Serious Concerns Policy V1.2

5.2 This policy does not apply to:

- Workers who work for the States of Jersey through a contract for services on an interim, locum, self-employed, or agency basis
- Voluntary staff or those on honorary contracts where there is no implied contract of employment.

5.3 Individuals in these categories should raise any complaint directly with one of the designated persons.

6 Roles and responsibilities

6.1 Designated Persons

6.1.1 The **Designated Persons** are named people with specific responsibility for ensuring that concerns raised under the above Codes and Policies are addressed appropriately. A Designated Person will be notified of all concerns that are raised under these arrangements and will be kept informed at all stages.

6.2.1 An employee can contact a **Designated Person** in confidence at any time; however, before doing, they are strongly advised to discuss their concerns with their line manager in the first instance. (See Section 4 below). The following people are Designated Persons:

- The Chief Executive of the States of Jersey. The office of the Chief Executive of the States was established under the Employment of State Employees (Jersey) Law 2005.
- The Treasurer of the States of Jersey. The office of the Treasurer of the States was established under the Public Finances (Jersey) Law 2005.
- The Chief Internal Auditor. The office of the Chief Internal Auditor was established under Article 35(1) of the Public Finances (Jersey) Law 2005.
- The Director of Human Resources.
- The Chairman of the Audit Committee is a non-executive member outside the States of Jersey.

Contact details are set out at **APPENDIX A**.

6.2.2 For departments which are required to comply with UK regulatory and statutory provisions applicable to specific definitions of "serious concerns" (for example, but not limited to, HSSD, Law Officers, and finance staff for Anti Money Laundering Policy) departmental guidelines are in place that may contain additional designated persons for these specific issues. (See 7.2.1)

7 Policy Provisions

7.1 Confidentiality & Anonymity

7.1.1 All matters raised under the Ministerial Code of Conduct, Code of Conduct for Elected Members, Anti-fraud and Corruption Policy and Reporting of Serious Concerns Policy will be treated as confidential. This means that they will be disclosed only when absolutely necessary. The person receiving the concern will ensure that the issue of confidentiality is discussed with the individual before the commencement of any action,

and advise them to whom the concern will be disclosed (for example, the Chief Minister or Chief Executive), and whether or not their name will be disclosed at this stage.

7.1.2 It is recognised that employees may want to raise a concern in confidence under this Code without their identity being disclosed. However the investigation process may reveal the source of the information and a statement by the individual may be required as part of the evidence. If the outcome of the investigation is that an external Hearing takes place, for example in the Courts, the States may be required to release information about the source of the allegation which means that anonymity cannot be guaranteed. It may therefore not be possible for an individual to raise a concern without their identity being disclosed, although the timing of this would be discussed with them.

7.1.3 Anonymous allegations are much less powerful and therefore this Policy strongly encourages individuals to put their name to the allegation. A decision about action on anonymous allegations will take into account:

- the seriousness of the issues;
- the credibility of the concern; and
- the likelihood of confirming the allegation from attributable sources.

7.2 Definition of a 'Concern'

7.2.1 The term 'concern' is used to describe circumstances where individuals, singly or collectively, wish to raise a matter about the activities of a States Minister or Member of the States under the Ministerial Code of Conduct or the Code of Conduct for Elected Members, or anyone elected to or employed by the States of Jersey under the Anti-Fraud Policy or the Serious Concerns Policy.

Examples of what may constitute a concern are:

- conduct which is an offence or a breach of law
- miscarriage of justice
- improper or unauthorised use of public or other funds
- fraud and corruption
- financial irregularity
- dishonesty
- malpractice
- bribery
- danger to the health or safety of any individual or the environment
- the deliberate concealing of information about the above
- inappropriate behaviour such as bullying and harassment

This list is however not exhaustive and any concerns or queries please contact any member in listed in Appendix A.

7.2.2 In addition some departments and professions may be governed by regulatory bodies or UK and /or Jersey legislation that have additional or different definitions of "serious concerns". Such departments have additional guidelines in place to which their staff should refer.

7.3 Raising a Concern

(See Reporting Form **Appendix B** and Flowchart **Appendix C**)

- 7.3.1 Concerns about any irregularity, be it financial or otherwise, can be raised in a number of ways. These include:
- a) Raising the concern with the immediate Manager or Supervisor; or their line manager's manager if the concern refers to the immediate line manager.
 - b) Notifying the appropriate Chief Officer or Finance Director of the Department;
 - c) Informing the Treasurer of the States;
 - d) Informing the Director of Human Resources; or
 - e) Informing the Chief Internal Auditor.
- 7.3.2 If a concern is raised through routes a) or b) above, the Manager, Finance Director, Chief Officer or Director of Human Resources have a responsibility to log the notification with the Chief Internal Auditor. Additionally in instances for a), b) or d), where the concern being raised relates to financial irregularities the Treasurer of the States and the Chief Internal Auditor, who will determine the appropriate action to be taken, must be informed.
- 7.3.3 It is recognised that in certain circumstances employees may feel the nature of their concern is such that they do not wish to raise them with their line manager or any of the individuals or departments listed above. In such circumstances employees may approach one of the Designated Person directly.
- 7.3.4 An individual wishing to raise a concern can do so verbally or in writing. A form is attached at **Appendix B**.
- 7.3.5 When a concern is raised the manager, Chief Officer or Finance Director should confirm which if any of the Codes or Policies (which these reporting arrangements cover) apply in the circumstances. Alternatives such as the Individual Grievance Policy (incorporating Bullying and Harassment) may be more relevant; in which case the person receiving the concern should direct the complainant to the policy most appropriate to the circumstances.
- 7.3.6 If it is appropriate to raise the concern under the Codes of Conduct or Policies under this policy, a meeting should be convened with the complainant, who may be accompanied by a trade union representative or a workplace colleague. (If this meeting is conducted by the manager he/she may also seek advice from other professionals, including Human Resources).
- 7.3.7 Following the meeting, the complainant will be given a written explanation of the action to be taken or the decision if action is not considered to be appropriate.
- 7.3.8 If the matter remains unresolved and the matter cannot be resolved by the employee's line manager or most senior manager then the concern should be referred directly to a Designated Person.
- 7.3.9 If the individual is not an employee the concern should be raised directly with a Designated Person.
- 7.3.10 In the event that a concern is raised by a member of staff about the actions or behaviour of an elected member, then the matter should be raised initially with the Chief Officer who will in turn discuss with the Chief Executive. An outcome of such discussions may lead to a discussion with the Chief Minister and a possible reference to the Privileges and Procedures Committee of the States Assembly of the States of Jersey, if appropriate.

7.3.11 If the concern is about a Chief Officer, the employee may raise the matter in confidence with directly with a Designated Person.

7.3.12 The **Chief Internal Auditor and the Chairman of the Audit Committee** can provide confidential and impartial advice about how to proceed with a raising a concern. Additionally, if the concern involves possible theft or fraud, the Chief Internal Auditor will ensure that the matter has been reported to the Police and that the investigation is progressed in accordance with financial directions and codes of practice of the States of Jersey.

8 Disclosure to outside agencies

8.1 The employee should only make a disclosure to an outside agency after internal procedures have been exhausted. Provided that the internal procedures have been followed, employees making a disclosure should feel able to do so without fear of disciplinary action or other sanctions being taken against them.

8.2 An employee may wish to seek advice from their trade union representative or professional organisation before making a decision to contact an external organisation.

8.3 The Chief Officer and/or Designated Person should be consulted prior to an approach being made to the media.

8.4 Other bodies and personnel can include the following:

- One of the designated persons
- A relevant professional body or regulatory organisation
- A legal representative
- The Police

9 Investigations

This section should be read in conjunction with the Investigation Guidelines

9.1 If an investigation takes place into the concern, this will take place as soon as reasonably practicable and will be arranged by the Department or Designated Person who will report on progress as the investigation allows.

9.2 Investigations into concerns raised by an employee will be conducted in the strictest confidence, and take place in a timely manner.

9.3 It may be necessary to refrain from informing the subject of the concern during the investigation, for example in the case of suspected fraud.

9.4 In some cases, such as allegations of ill treatment of patients, children or vulnerable persons, it may be appropriate to consider the suspension of any persons who may be implicated whilst the investigation is conducted.

9.5 If the outcome of the investigation is that there is a case to answer, then the Disciplinary Policy and Procedure may be used.

9.6 If the outcome of the investigation is that there is no case to answer, and the employee has made the allegation in good faith, no action will be taken.

9.7 Employees who are found to have acted with malicious or vexatious intent may be subject to disciplinary action.

10 Exceptions to these arrangements

Members of the States of Jersey Police are not covered by these arrangements as they have comprehensive arrangements already in place for the reporting of serious concerns. Individuals may seek informal advice on how to progress their concern through the Professional Standards Department.

APPENDIX A

The following information of contact details are below for the designated people:

Person	Phone	Email
<u>Chief Executive</u>	<u>440397</u>	<u>J.Richardson@gov.je</u>
<u>Treasurer of the States</u>	<u>440215</u>	<u>R.Bell@gov.je</u>
<u>Director of Human Resources</u>	<u>440129</u>	<u>R.Stevens@gov.je</u>
<u>Chief Internal Auditor</u>	<u>440136</u>	<u>C.Watson@gov.je</u>
<u>Chairman of the Audit Committee</u>	<u>440691 / 01534 822365</u>	<u>alex.ohlsson@careyolsen.com</u>

The address for all designated persons is:

**Cyril Le Marquand House
PO Box 353
St Helier
Jersey
JE4 8UL**

The main switchboard number for Cyril Le Marquand House is - 445500

Sources of Support and Advice

You may also approach the following to seek advice about how to progress your concern:

- The Chief Internal Auditor reportconcerns@gov.je
- Your trade union representative or your professional association
- Jersey Advisory and Conciliation Service (JACS) www.jacs.org.je/
- The Human Resources team
- Your manager

Members of the States of Jersey Police are not covered by these arrangements as they have comprehensive arrangements already in place for the reporting of serious concerns. Individuals may seek informal advice on how to progress their concern through the Police Professional Standards Department.

APPENDIX B

CONFIDENTIAL REPORTING FORM Ministerial Code of Conduct, Code of Conduct for Elected Members, Anti-fraud and Corruption Policy and the Reporting of Serious Concerns ("Whistleblowing") Policy.	
Name:	
Job Title:	
Department:	
I would prefer to be contacted (please tick) :	<input type="checkbox"/> By telephone (on the following telephone number)
	<input type="checkbox"/> By email (at following email address)
	<input type="checkbox"/> In writing (at the following address)
	<input type="checkbox"/> In person (at the following location)
Please set out the details of your concern below and any actions if any you have already taken in respect of the concern. Additional pages may be added as necessary:	
Signed:	

Date:

APPENDIX C



